

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

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*
UNITED STATES OF AMERICA *
*
v. * 14-mj-123-01-JL
* June 30, 2014
* 11:30 a.m.
*
ALKIS NAKOS *
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TRANSCRIPT OF PRELIMINARY AND DETENTION HEARING
BEFORE MAGISTRATE JUDGE ANDREA JOHNSTONE

Appearances:

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I N D E X

<u>Witness</u>	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
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JENNIFER MACKENZIE

By Ms. Ollila

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By Mr. Carey

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1 THE FOLLOWING PROCEEDING WAS TRANSCRIBED FROM AN FTR
2 GOLD TAPE:

3 THE CLERK: The court has before it for
4 consideration a preliminary hearing and detention
5 hearing in the matter of Alkis Nakos, case number
6 14-mj-123-01-JL.

7 THE COURT: Attorney Carey, my understanding
8 is that you have a preliminary matter that you would
9 like to put on the record before we proceed. Is that
10 correct?

11 MR. CAREY: Correct, your Honor. And this is
12 the matter regarding a conflict check. When I was
13 appointed to represent Mr. Nakos a matter came up, an
14 old matter that was closed in 2009. That was a matter
15 in which River Crossing LLC sued attorney Steven Maynard
16 and his firm Jordan, Maynard & Parodi. Mr. Nakos and
17 his mother I believe were the plaintiffs in that case
18 and were connected with that LLC. Attorney Emily Rice
19 represented Attorney Maynard and his firm in the
20 professional malpractice claim. I was not involved in
21 that case, not familiar with its facts, and Emily Rice
22 no longer works for our firm. And it's my understanding
23 that matter was closed in 2009. I've talked with Mr.
24 Nakos about it, but I think for purposes of the record
25 we should probably put his position on the record. It's

1 my understanding he has no conflict and no objection to
2 my representation.

3 THE COURT: Thank you. Mr. Nakos, if you'd
4 stand, please. Do you understand the issue that your
5 attorney has raised revealing the conflict check that
6 someone in his office had handled a matter that your
7 family was involved in?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: And do you have any concerns about
10 that conflict?

11 THE DEFENDANT: No, your Honor.

12 THE COURT: And to the extent that there is a
13 conflict, and I think we've reached the general
14 consensus that we don't believe that there is, but to
15 the extent that there is a conflict, are you waiving
16 that conflict for the purposes of your representation in
17 this matter?

18 THE DEFENDANT: Yes.

19 THE COURT: I'm satisfied. Thank you. We can
20 proceed.

21 Mr. Nakos, just one other thing before we get
22 started. The last time you were before me we reviewed
23 your right to remain silent, not to speak about this
24 particular matter. Are you comfortable that you still
25 understand that those rules are applicable to you today?

1 Would you like me to go through and remind you about
2 those rights again?

3 THE DEFENDANT: No, I understand them, your
4 Honor.

5 THE COURT: Thank you. Why don't we proceed
6 with the preliminary hearing in this matter.

7 MS. OLLILA: Yes.

8 THE COURT: Attorney Ollila. Thank you.

9 MS. OLLILA: Thank you, your Honor. The
10 United States calls Sergeant Jennifer Mackenzie to the
11 witness stand.

12 THE CLERK: Please stand and raise your right
13 hand.

14 JENNIFER MACKENZIE

15 having been duly sworn, testified as follows:

16 THE CLERK: For the record, please state your
17 full name and spell your last name.

18 THE WITNESS: My name is Jennifer Mackenzie,
19 and it's M-A-C-K-E-N-Z-I-E

20 MS. OLLILA: Your Honor, for housekeeping
21 matters I do anticipate that Sergeant Mackenzie will
22 testify for approximately an hour. And as your Honor is
23 aware, this is a long-term investigation. The affidavit
24 is about a hundred pages. It's the United States'
25 understanding that I will focus in on the information

1 involving Mr. Nakos, but notwithstanding that it will
2 take at least in the United States' estimation an hour
3 for Sergeant Mackenzie.

4 THE COURT: I understand that. I appreciate
5 that and we will proceed accordingly. If we need to
6 take a break, and Sergeant Mackenzie, to the extent that
7 you need a break, an hour sometimes feels like a long
8 time to be on the witness stand, just let us know and we
9 will take a short recess and resume if we need to.

10 MS. OLLILA: Thank you for your understanding,
11 your Honor.

12 DIRECT EXAMINATION

13 BY MS. OLLILA:

14 Q. Sergeant Mackenzie, how you employed?

15 A. I'm employed with the New Hampshire State
16 Police.

17 Q. How long have you been with the New Hampshire
18 State Police?

19 A. I've been with the New Hampshire State Police
20 for approximately 16 and a half years.

21 Q. And what is your rank?

22 A. Right now I'm a sergeant.

23 Q. What does that mean to be a sergeant with the
24 New Hampshire State Police?

25 A. I am a supervisor.

1 Q. Approximately how many individuals do you
2 supervise?

3 A. Approximately eight.

4 Q. And what is -- are you currently assigned to a
5 particular unit?

6 A. Yes. I'm assigned to the Narcotics and
7 Investigations Unit.

8 Q. Is that also known as NIU?

9 A. Yes.

10 Q. Do you supervise those eight individuals
11 within the Narcotics and Investigations Unit?

12 A. I do.

13 Q. What does NIU do in the state of New
14 Hampshire?

15 A. Most of the investigations that we do are
16 narcotics-related, but we also do other investigations.

17 Q. Do you work hand in hand with other agencies?

18 A. Yes. We work with federal and local agencies
19 as well.

20 Q. With respect to federal agencies, what are
21 some of those federal agencies that you work with?

22 A. The Drug Enforcement Administration, FBI,
23 Homeland Security, Liquor Commission.

24 Q. Is it fair to say with respect to this
25 investigation members of NIU have worked hand in hand

1 with members of the DEA?

2 A. Yes.

3 Q. And when you conduct an investigation, do you
4 gather intelligence from other law enforcement agencies?

5 A. Yes, we do.

6 Q. In 2008 are you aware that members of the
7 Oklahoma police stopped a motor vehicle being driven by
8 an individual named Brandon Anderson?

9 A. Yes, I am.

10 Q. And what happened when that motor vehicle was
11 stopped, and in answering the question if you can
12 identify the license plate that was on the vehicle.
13 Where was the tag from?

14 A. The registration that Mr. Anderson was
15 operating was from New Hampshire. The exact --

16 Q. You don't have to give the exact tag.

17 A. Okay.

18 Q. So was the vehicle stopped in Oklahoma?

19 A. Yes, it was.

20 Q. What did law enforcement find in that vehicle?

21 A. Law enforcement did a search of the vehicle
22 and found over \$2 million in Mr. Anderson's vehicle.

23 Q. Did Mr. Anderson cooperate with law
24 enforcement?

25 A. He did.

1 Q. And what did he say with respect to where that
2 money came from?

3 A. He advised that it was proceeds from marijuana
4 distribution that he was transporting from the east
5 coast to California.

6 Q. Did Mr. Anderson during the brief period of
7 his cooperation identify the individual for whom he was
8 engaged in the transportation of proceeds of the
9 distribution of marijuana?

10 A. He did. It was Jeffrey Colgrove and Steven
11 Sarti.

12 Q. Is that Steven Sarti?

13 A. Sarti.

14 Q. Now Jeffrey Colgrove, do you know where
15 Jeffrey Colgrove resides?

16 A. Yes, in Canada.

17 Q. And what -- strike that. Based upon the
18 information that law enforcement received from Brandon
19 Anderson, did law enforcement, including members of DEA,
20 execute search warrants in Vermont at some point in
21 2009?

22 A. Yes, they did.

23 Q. Just by way of background, can you advise
24 Magistrate Johnstone what the focus of the investigation
25 was. There was a marijuana investigation initiated in

1 Canada, but where was the marijuana going to?

2 A. The marijuana was going from Canada to
3 Vermont, to Massachusetts, to New Hampshire, and we were
4 primarily focusing on it coming into New Hampshire.

5 Q. Now, in addition to the marijuana coming into
6 Vermont, did it also come in to upper state New
7 Hampshire?

8 A. It did.

9 Q. And what about New York?

10 A. And New York as well.

11 Q. Are there areas in both states that are
12 essentially a stone's thrown away from Canada?

13 A. Yes.

14 Q. Now, what do you know about marijuana
15 trafficking in the District of New Hampshire. Are there
16 various types of traffickers in this state?

17 A. Yes. We have street level and we also have
18 larger scale traffickers.

19 Q. How would you know the difference between the
20 two?

21 A. Street level mainly focus on smaller amounts
22 of marijuana where the larger traffickers traffic in
23 hundreds of pounds of marijuana.

24 Q. Now what would, the larger scale traffickers,
25 is there a difference in the quality of marijuana in

1 someone who is involved in a large scale operation
2 versus someone who is engaged in small scale operation?

3 A. Yeah. The quality of the marijuana can range
4 from a thousand dollars for a pound to \$5,000 for a
5 pound.

6 Q. That's a huge difference. How do you account
7 for that difference?

8 A. Again, it depends on the actual quality of the
9 marijuana, the THC level.

10 Q. Now, what about this investigation. Did this
11 investigation establish that the individuals involved
12 were engaged in distribution of a high quality
13 marijuana, low, or midway?

14 A. It was more of a higher quality marijuana.

15 Q. So the marijuana would be smuggled into the
16 United States from Canada?

17 A. Correct.

18 Q. Now, what did the information establish. Are
19 there numerous individuals who occupied various roles in
20 getting marijuana from Canada into the United States?

21 A. Yes. Typically you have a person who is at
22 the top in Canada who is pretty much running the
23 distribution of the marijuana. That person will
24 coordinate where the marijuana goes in the United
25 States, what person it goes to, and then that person

1 will coordinate in those states where it's going.

2 Q. Are there individuals in marijuana
3 organizations who are simply tasked with literally
4 dragging marijuana across the border from Canada into
5 the United States?

6 A. Yes.

7 Q. Are there individuals in organizations like
8 this who are simply tasked with staying at a stash
9 location?

10 A. Yes.

11 Q. Are there yet other individuals who are simply
12 tasked with driving marijuana from place A to place B?

13 A. Yes.

14 Q. And are yet there still individuals who are
15 involved with only counting proceeds for trafficking?

16 A. Yes.

17 Q. Are there individuals whose job is only to
18 transport proceeds?

19 A. Yes.

20 Q. Why is it in drug law enforcement there are so
21 many people occupying so many different roles?

22 A. Because the organizations can be so big, and
23 especially when distributing a large amount of marijuana
24 you need certain people in certain parts of the
25 operation to fulfill what needs to be done, and a lot of

1 times that can, you know, you have one person in control
2 of where the marijuana is actually going and where it's
3 going to be stashed, and then you have another person
4 that can actually coordinate where that marijuana is
5 distributed to.

6 Q. Does it make it hard for law enforcement when
7 you, for example, might stop the one whose only role was
8 to drag a load of marijuana across the border, is that
9 hard to try to get that person to flip and testify about
10 the larger organization?

11 A. Yes. Typically that person will not cooperate
12 with law enforcement, so we only have a small part of
13 what actually is occurring within the network.

14 Q. Do organizations like this attempt to insulate
15 the individuals at the top in that the multiple
16 personalities don't know the big picture?

17 A. Yes.

18 Q. Has that happened here?

19 A. Yes.

20 Q. What about telephones, Sergeant Mackenzie.
21 What do you typically see in an organization like this
22 with how they utilize the telephone?

23 A. Well, this case specifically, and I've done
24 many large scale cases, but this case specifically the
25 number of phones that they used is more than I've ever

1 seen and what I mean by that is, you know, we will have
2 information that a person is using a certain phone
3 number and then a month or two months later that person
4 is using a totally different phone number which
5 basically tells me that they're trying to not be
6 intercepted by law enforcement, and the way to do that
7 is to continuously change their phone numbers or use
8 phone numbers for specific marijuana loads, you know, so
9 basically if it's a hundred-pound load coming into New
10 Hampshire, they will actually sometimes put phones in
11 the load and tell the people that are at the other end
12 distributing the marijuana utilize this phone for this
13 load, and then once that load is distributed that phone
14 is no longer used.

15 Q. Why don't law enforcement, and I will take
16 your example, if a telephone is placed in a load of
17 marijuana that comes across the border, why don't law
18 enforcement send out a subpoena for that phone to find
19 out in whose name it was purchased?

20 A. Because 99.9 percent of the time those phones
21 are called phone-in-a-box which basically means there's
22 no subscriber and there's no way to track where exactly
23 who that phone is being utilized by.

24 Q. Is it fair to say that in this case it was
25 almost impossible to locate who purchased phones, when

1 they were purchased?

2 A. Yes, it was impossible.

3 Q. Now, you testified that there's a reason why
4 there are so many phones. Do you know what a Title III
5 intercept is?

6 A. Yes, I do.

7 Q. What is a Title III intercept?

8 A. Basically a Title III is when enforcement
9 actually can listen to a live call. When one of these
10 drug dealers makes a call, we can actually listen to
11 that conversation while it's happening.

12 Q. Is that also known as a wiretap?

13 A. Yes.

14 Q. Is it easy to get a wiretap?

15 A. It is not easy.

16 Q. Is it incredibly difficult?

17 A. Very, very difficult.

18 Q. Does it take months and months in order to get
19 authorization to obtain a wiretap?

20 A. Yes, it does, yes.

21 Q. What happens when you obtain authorization and
22 you're listening to a phone and then one week later that
23 person drops the phone, what does law enforcement then
24 have to do?

25 A. Pretty much we have to start from the

1 beginning and try to determine what phone this person is
2 now using.

3 Q. Now, with respect to individuals who are
4 involved in investigations like this, do they typically
5 use one phone to call everyone in an organization?

6 A. Typically they have different phones for
7 different people.

8 Q. Why?

9 A. So, well, if you have somebody on the higher
10 end of the organization you obviously want to insulate
11 them from the people that are at the lower end. So then
12 you will talk to your distributors, say your
13 distributors are distributing pounds at a time, you give
14 them a certain number so that if anything ever happens
15 and they get arrested by law enforcement and they decide
16 to cooperate they won't have the information or the
17 phone number on the person that's actually at the top.

18 Q. Let's talk about insulating individuals at the
19 top. People who are at the higher levels of the drug
20 organization, is it typical for them to touch controlled
21 substances?

22 A. No. They pretty much have people that work
23 for them that do, as I say, the dirty work, and what I
24 mean by that is the actual distribution of the marijuana
25 or coordinating who is going to distribute it.

1 Q. Why don't they touch the drugs?

2 A. Because that will, again, keep them insulated
3 from actually getting in trouble. So, if law
4 enforcement arrests somebody who is down the chain of a
5 big organization and that person doesn't cooperate, then
6 this person hasn't really made any phone calls to actual
7 sources, hasn't made any phone calls to actual people
8 that are selling on the street, then the head person is
9 actually insulated from who he thinks is getting in
10 trouble.

11 Q. How often or how easy is it to break the
12 barrier from getting the street level distributor to
13 that individual above him and ultimately to the people
14 at the higher echelon of the conspiracy?

15 A. It can be difficult.

16 Q. Now, you indicated that people involved in
17 drug organizations utilize various methods such as
18 having a lot of people occupy small roles such as using
19 telephones. What about surveillance. Can law
20 enforcement just follow someone like Alkis Nakos around
21 and see where he goes and see what he does?

22 A. Surveillance can be utilized. The problem
23 with surveillance is, first of all, you're only getting
24 a certain amount of information, and the information
25 you're getting is maybe where he goes, who he meets

1 with. But a lot of times people when they have been
2 doing this for a while are savvy to the fact that law
3 enforcement might follow them and what they try to do is
4 they do counter surveillance moves which they will drive
5 down side streets, drive down into neighborhoods, goof
6 around, do things, you know, pull into parking lots, do
7 things that are out of the ordinary, nobody is supposed
8 to do it, and when law enforcement is following it's
9 obvious to us that they're trying to see if anybody is
10 actually following them.

11 Q. Have you seen that in this case in particular,
12 that individuals involved in this case have engaged in
13 counter surveillance?

14 A. Yes, yes.

15 Q. Can you give an example of that?

16 A. One of the individuals, again, we were
17 following an individual, and the individual pulled into
18 a public parking lot, looped around the building, pulled
19 out only to go to a restaurant and have lunch with
20 somebody. So, it was obvious based on the streets and
21 the areas they were going that they weren't going there
22 for any reason, they were just going there to simply see
23 if anybody was following them. And this particular
24 individual actually just went to a restaurant, which
25 tells us that this is something that's common practice

1 for that person. No matter what they're doing, they're
2 constantly checking to see if they're being followed.

3 Q. Now, you were testifying earlier that Brandon
4 Anderson, his motor vehicle with a New Hampshire tag was
5 stopped in Oklahoma and there was \$2 million seized, and
6 that law enforcement took that information and you
7 indicated -- were there search warrants executed in
8 Vermont?

9 A. Yes, there were.

10 Q. As a result of those search warrants, was
11 someone arrested that was located at one of the search
12 warrants who became a cooperating source?

13 A. Yes.

14 Q. What's a cooperating source?

15 A. A cooperating source is someone who works with
16 law enforcement for consideration on maybe pending
17 charges that they have.

18 Q. Now, would you ever rely exclusively upon the
19 information from a cooperating source in making an
20 investigation against someone?

21 A. No. We always, whatever the cooperation
22 source tells us, we always try to corroborate that. And
23 in this particular case in Vermont the cooperating
24 source had told us that the marijuana that was coming
25 down from Canada was specifically labeled NH, and all

1 the marijuana that was labeled NH went to a subject
2 called Alkis Nakos. This cooperating source was able to
3 identify Alkis Nakos, and this cooperating source was
4 able to tell us where Alkis Nakos lived and also where
5 Alkis Nakos worked at.

6 Q. So, okay, the cooperating source is arrested
7 in Vermont, and the cooperating source begins
8 cooperating. By the way, is it a dangerous proposition
9 to cooperate with law enforcement?

10 A. Yeah, it can be, especially depending who
11 you're cooperating against.

12 Q. Now, is that why law enforcement label
13 cooperatives as CS, cooperating source, or CI,
14 confidential informant?

15 A. Yes.

16 Q. Do you ever disclose the identity of a
17 confidential informant or a CS?

18 A. We try not to but obviously if it comes down
19 to having them testify sometimes we have to.

20 Q. Now, in this investigation has law enforcement
21 seized information that there had been threats of harm
22 to individuals who have cooperated?

23 A. Yes, we have.

24 Q. And has that information been very recent?

25 A. Yes.

1 Q. And what do you mean by very recent?

2 A. Last week, as a matter of fact, we received a
3 phone call that they were making allegations that they
4 were going to cause harm to people that are cooperating
5 in this investigation.

6 Q. Now, let's just back up a little bit. You
7 testified that the confidential source in Vermont
8 identified Alkis Nakos. Do you see Alkis Nakos in the
9 courtroom?

10 A. Yes, I do.

11 Q. Could you please point to him and describe an
12 article of clothing that's he wearing?

13 A. He's wearing a beige jumpsuit.

14 MS. OLLILA: Your Honor, may the record
15 reflect the witness has identified the defendant, Alkis
16 Nakos.

17 THE COURT: The record should reflect that.

18 MS. OLLILA: Thank you, judge.

19 Q. You also indicated that the confidential
20 source identified Alkis Nakos through a photograph?

21 A. Yes.

22 Q. And that the confidential source identified
23 where Alkis Nakos worked?

24 A. Correct.

25 Q. Where did the CS say Alkis Nakos works?

1 A. He advised Amory House of Pizza.

2 Q. Now, by the way, how long has the New
3 Hampshire State Police along with other law enforcement
4 officers been involved in this investigation?

5 A. This particular one, over a year. But this
6 whole total, since 2008 is when it first came to our --

7 Q. So the present investigation, law enforcement
8 had been looking at this group for at least a year?

9 A. At least a year, yes.

10 Q. Now, and I didn't want to ask you specific
11 hours, but is it fair to say that law enforcement had
12 been watching Amory Pizza for many, many hours?

13 A. Yes.

14 Q. Why Amory Pizza?

15 A. Because that was the location that we were
16 advised that Alkis Nakos worked.

17 Q. And is it a pizza operation?

18 A. If it is we've never seen a pizza come out of
19 that operation.

20 Q. Have you seen a sub package, a pizza being
21 delivered, anything leaving that establishment that
22 resembled food in any capacity?

23 A. We've never seen anything come out of the
24 establishment that resembled food.

25 Q. Now, is that fair to say that that's a

1 business, there's now a lis pendens on that business
2 that was filed by the U.S. Attorney's office?

3 A. Yes.

4 Q. And is that business being forfeited by the
5 U.S. Attorney's Office?

6 A. Yes, it is.

7 Q. And have records been received by the U.S.
8 Attorney's Office in conjunction with this information
9 involving Amory Street Pizza?

10 A. Yes.

11 Q. What do those records show with respect to how
12 much is being spent a month on food at Amory Street
13 Pizza?

14 A. I believe it was approximately \$12 a month is
15 what they purchased for food.

16 Q. So Amory Street Pizza, an ongoing business,
17 utilized \$12 in U.S. currency a month to purchase food?

18 A. Correct.

19 Q. Now, you briefly touched upon the confidential
20 source, and what you said was the confidential source
21 indicated that marijuana coming from Canada and
22 ultimately headed to Alkis Nakos was labeled NH?

23 A. Correct.

24 Q. What does that mean to you in law enforcement?

25 A. To me it means if Canada is distributing to

1 multiple states within New England or the east coast,
2 they have to distinguish where each load is going, and
3 anything that was marked NH involved marijuana typically
4 coming to New Hampshire.

5 Q. Okay. Now let me just try to jump way ahead
6 at some point. Now, is it fair to say that a search
7 warrant was executed at the residence of Kosmas Koustas
8 at some point in time during this investigation?

9 A. Yes.

10 Q. Did that occur in March of 2014?

11 A. Yes.

12 Q. And in addition to -- what was seized at that
13 residence?

14 A. What was seized were two firearms,
15 approximately 15 cell phones, approximately two pounds
16 of MDMA which is Methylenedioxyamphetamine or also known
17 on the street as Molly, and one pound of marijuana that
18 was actually labeled NH.

19 Q. Okay. So, in March of 2014 law enforcement
20 took out a search warrant at Kosmas Koustas's residence.
21 During that investigation did you establish that Kosmas
22 Koustas had ties directly with Alkis Nakos?

23 A. Yes.

24 Q. So during the execution of the search warrant
25 law enforcement seized approximately one pound of

1 marijuana?

2 A. Correct.

3 Q. And it was labeled what?

4 A. NH.

5 Q. What does that say to you?

6 A. To me that says that this is one of the loads
7 coming down from Canada which we believe had information
8 on in 2009 that would specifically go to Alkis Nakos for
9 distribution.

10 Q. You also testified that law enforcement seized
11 how many cell phones?

12 A. Approximately 15 cell phones.

13 Q. What does that say to a law enforcement
14 officer?

15 A. What it says to me is Kosmas Koustas was
16 involved in drug trafficking and frequently changed his
17 cell phone.

18 Q. You also indicated that law enforcement seized
19 two pounds of Molly or MDMA; is that correct?

20 A. Correct.

21 Q. Is that a lot of Molly or MDMA to find in New
22 Hampshire?

23 A. Yes, that is a lot.

24 Q. Now, let me just back up again. So the
25 confidential source in 2009 identified Alkis Nakos and

1 said that he was NH; is that correct?

2 A. Correct.

3 Q. Did the confidential source identify how much
4 weight was being distributed to Alkis Nakos on a weekly
5 basis between 2008 and 2009?

6 A. Yes, it was approximately 100 to 200 pounds a
7 week.

8 Q. Did the confidential source indicate whether
9 it had ever met with Alkis Nakos in order to obtain
10 amounts of currency?

11 A. Yes, it met Alkis Nakos at Amory House of
12 Pizza.

13 Q. And what did the confidential source say with
14 respect to how much currency it had obtained from Alkis
15 Nakos during that time frame which represented proceeds
16 from the distribution of marijuana?

17 A. The proceeds were approximately three to \$5
18 million.

19 Q. And what about the quantity of drugs, the
20 quantity of marijuana that the CS identified as being
21 delivered to Alkis Nakos with the label NH?

22 A. Approximately 3,000 to 5,000 pounds during
23 that period of time.

24 Q. Now, that occurred in 2009; correct?

25 A. Correct.

1 Q. Is it fair to say that many individuals were
2 arrested at that time with respect to the drug
3 trafficking organization?

4 A. Yes, they were.

5 Q. Was Jeffrey Colgrove arrested?

6 A. No, he was not.

7 Q. Was Alkis Nakos arrested?

8 A. No, he was not.

9 Q. Was Kosmas Koustas arrested?

10 A. No, he was not.

11 Q. So, now let's span forward to 2012. Why do
12 members of the New Hampshire State Police still care
13 about Alkis Nakos?

14 A. Unfortunately in 2009 we didn't have enough
15 evidence to prove what his role was, but obviously we
16 were still interested in investigating him because
17 that's a large quantity of marijuana to be coming into
18 New Hampshire and be distributed, so it was obviously
19 something we were still interested in.

20 Q. Once someone comes up on the radar screen with
21 law enforcement, do you ever just let it go by or do you
22 always keep their name in mind?

23 A. No, we always keep their name definitely in
24 mind and typically it always comes back around, might
25 take a year or two, but usually more information comes

1 in, somebody else comes in to cooperate and we get more
2 information that the person is still distributing.

3 Q. In or around 2012 did law enforcement increase
4 their investigation involving Alkis Nakos and
5 individuals connected with Alkis Nakos?

6 A. Yes.

7 Q. Did you utilize a confidential informant
8 numbered CI#2?

9 A. Yes, we did.

10 Q. What did CI#2 say with respect to Alkis Nakos?

11 A. CI#2 was speaking with a subject by the name
12 of Charles Fowle, and CI#2 received information from
13 Charles Fowle that Kosmas Koustas was getting hundreds
14 of pounds of marijuana from Alkis Nakos. Koustas also
15 had another source that the CI said came from the
16 Worcester, Massachusetts, area and Koustas would use
17 that person when he was picking up smaller quantities of
18 marijuana.

19 Q. So now you have CI#2 in 2012 indicating very
20 much similar information as to the confidential source,
21 what the confidential source said in 2009; is that
22 correct?

23 A. Correct.

24 Q. What was the game plan in 2012 with respect to
25 CI#2?

1 A. We were actually going to see if CI#2 would
2 actively cooperate. Unfortunately CI#2 was not able to
3 do anything directly with Alkis Nakos.

4 Q. Why?

5 A. Typically, like I said, people that are at the
6 top try to insulate themselves and utilize people that
7 are under them to actually do the actual distribution.
8 CI#2 did have contact with Charles Fowle and he also was
9 able to have contact with Kosmas Koustas.

10 Q. So, if one or two go up on a wiretap or Title
11 III intercept, do law enforcement have to have what's
12 known in the business as a dirty call?

13 A. Yes, we do, either a phone call or a text
14 message.

15 Q. So before you receive authorization from the
16 court to initiate a wire intercept you have to utilize,
17 for example, a confidential source in order to make a
18 dirty call or a drug-related call to a target; correct?

19 A. Correct.

20 Q. Was CI#2 in a position to engage in a dirty
21 call to Alkis Nakos?

22 A. He was not.

23 Q. Was CI#2 in a position to engage in a
24 drug-related call to Kosmas Koustas?

25 A. Yes, he was.

1 Q. Did that happen?

2 A. Yes, it did.

3 Q. And based upon that investigation did law
4 enforcement receive authorization from Judge Barbadoro
5 to engage in a wiretap intercept starting on
6 October 23rd, 2013, over a telephone that was being
7 utilized by Kosmas Koustas?

8 A. Yes, we did.

9 Q. Now, like that telephone, was that telephone
10 actually in Kosmas Koustas's name?

11 A. It was not.

12 Q. What was the goal, your ultimate goal was
13 Alkis Nakos; correct?

14 A. Correct.

15 Q. Well, why would you want to go and intercept
16 calls involving Kosmas Koustas?

17 A. Because we knew that Kosmas Koustas had more
18 of a direct tie to Alkis Nakos.

19 Q. Did you expect that the wire intercept that
20 was authorized in October would link Kosmas Koustas
21 directly to Alkis Nakos?

22 A. Yes, we were.

23 Q. And did that happen on that telephone?

24 A. It did not on that telephone.

25 Q. Why? What would you attribute that to?

1 A. Typically like I said before, people that are
2 distributing marijuana or other drugs utilize certain
3 phones for certain people. So Charles Fowle, or the
4 confidential source, Kosmas Koustas spoke to those two
5 people because they were lower on the chain of
6 distribution when you utilize one phone. When he was
7 talking to other people involved in the organization, he
8 had other phones. And like I said, we seized 15 phones
9 from this residence.

10 Q. By the way, is it difficult to obtain
11 authorization to get search warrants for phones once you
12 seize them?

13 A. Yes.

14 Q. And even if you get search warrants to
15 authorize searching of the telephones when you seize
16 them, is it easy to unlock the password on a phone?

17 A. No. Nine times out of ten we're unable to
18 actually unlock the phone.

19 Q. At times does it take three to six months just
20 to gain access to a telephone that you have seized and
21 have a search warrant for?

22 A. Yes.

23 Q. Do most drug traffickers know this?

24 A. I assume they would know, that's why they lock
25 their phones.

1 Q. Okay. Now, going back. The wiretap intercept
2 was authorized October 23rd, 2013; correct?

3 A. Correct.

4 Q. What happened on that night?

5 A. We almost immediately received a phone call
6 between Kosmas Koustas and a subject that we had later
7 identified as Dean Sieger, and in the context of that
8 conversation we determined that Kosmas Koustas was going
9 to travel to Massachusetts to pick up a quantity of
10 marijuana from Mr. Sieger.

11 Q. So you're listening to this call in realtime;
12 correct?

13 A. Correct.

14 Q. When you heard that, that Kosmas Koustas was
15 making arrangements to go to Massachusetts to pick up
16 from someone believed to be Dean Sieger, do you scramble
17 your unit and try to get surveillance units out in order
18 to watch this happen?

19 A. Unfortunately we weren't able to go down to
20 Massachusetts just because we had really no way of
21 knowing where the transaction was going to happen, and
22 even at that time I think we had determined that it was
23 maybe down in the Worcester area. By the time we got
24 units down there pretty much we determined that Koustas
25 would have been coming back to New Hampshire, so we

1 decided to set up surveillance in the New Hampshire
2 area.

3 Q. When individuals engage in communication over
4 their telephones and they're dealing with drugs, do they
5 say something of the sort, I want a hundred pounds of
6 marijuana, I will meet you at this address, will you be
7 there. Do they do anything like that?

8 A. No, they do not. We typically call it a coded
9 language, and what we mean by coded language is they
10 will say, hey, I want one, or I want a hundred.
11 Sometimes they'll actually use terminology like they'll
12 say shoes, and we'll determine, okay, one shoe is let's
13 say a pound of marijuana, and through the course of the
14 investigation you are actually able to figure out what
15 that code actually means.

16 Q. What about in this case. Was there ever any
17 particular code that law enforcement were able to break
18 and understand what they were talking about?

19 A. I know many times Koustas would use the term
20 Molly which is a street term for MDMA.

21 Q. Now, on October 23rd when law enforcement
22 intercepted the call, did law enforcement attempt to
23 pick up Kosmas Koustas when he arrived back in New
24 Hampshire?

25 A. Yes. Kosmas Koustas actually placed a phone

1 call to Charles Fowle. Through the context of that call
2 we determined that he actually was going to drop off a
3 quantity of marijuana to Charles Fowle. And of course
4 we knew where Charles Fowle lived so we actually set up
5 surveillance on Charles Fowle's house.

6 Q. So the original call is between Kosmas Koustas
7 and someone law enforcement believed to be Dean Sieger,
8 and the call is arranging a meet; correct?

9 A. Correct.

10 Q. And after Kosmas Koustas met with Dean Sieger
11 that law enforcement do not surveil, does Kosmas Koustas
12 as he's driving back to New Hampshire contact Charles
13 Fowle?

14 A. Yes, he does.

15 Q. And what does he say to Charles Fowles?

16 A. Basically the context was that he had
17 something for him, which we in turn because we just met
18 with Mr. Sieger, meant that he picked up a load of
19 marijuana and he wanted to distribute some of that
20 marijuana to Charles Fowle to actually distribute to his
21 customers.

22 Q. Okay. So on October 23rd during the nighttime
23 Kosmas Koustas, after a meet with Sieger, contacts
24 Charles Fowles and says I've got something for you. Is
25 that accurate?

1 A. Correct.

2 Q. So, do law enforcement then see Kosmas Koustas
3 arrive at Charles Fowle's residence?

4 A. Yes, we do.

5 Q. And by the way, where does Charles Fowle live?

6 A. He lives on Waverly Street in Manchester, New
7 Hampshire.

8 Q. Were you able to confirm that Kosmas Koustas
9 in fact dropped off marijuana after Kosmas Koustas left
10 that residence?

11 A. Yes.

12 Q. And how is that? Did he, he, Kosmas Koustas,
13 engage in another telephone call with Charles Fowle?

14 A. Yes. They had a conversation and basically
15 were talking about the quality of the marijuana. One
16 term was used to fluff it up, you know, Charles Fowle
17 wasn't sure he was happy with it or not.

18 Q. What does that mean to fluff it up in drug
19 language?

20 A. It sounds almost like the marijuana was a
21 little compressed and Koustas actually advised to fluff
22 it up a little bit, meaning break it up a little bit.

23 Q. In addition to contacting Charles Fowle during
24 that night, did Kosmas Koustas also contact as he was
25 traveling back from Massachusetts, somebody by the name

1 of Jeremy Blevens?

2 A. Yes, he did.

3 Q. Did he make arrangements to meet with Jeremy
4 Blevens?

5 A. Yes, he arranged to meet him up in the area
6 where Kosmas Koustas lives in Hooksett.

7 Q. Did law enforcement establish surveillance
8 where Kosmas Koustas lives in Hooksett?

9 A. Yes.

10 Q. Did you observe Kosmas Koustas meet with
11 someone who you believed to be Jeremy Blevens?

12 A. Yes, we did.

13 Q. What did you see with respect to whether
14 Kosmas Koustas was carrying anything when he went to
15 meet with Jeremy Blevens?

16 A. What we saw on that night is we saw Kosmas
17 Koustas leave his residence and actually drive down
18 street a ways and there's a little parking area off the
19 side of the street. He pulled up next to another
20 vehicle, got out of the car and he had a bag in his hand
21 briefly, and got back into his car. Unfortunately the
22 way the area was, we weren't able to actually directly
23 sit on where they were meeting and had to do periodic
24 drive-bys.

25 Q. Why is that? Do individuals such as Kosmas

1 Koustas and Alkis Nakos engage in transactions in the
2 middle of a parking lot so that they can see law
3 enforcement who are attempting to surveil them?

4 A. Yes. In this type of parking lot that they
5 were in is very small, probably three or four cars could
6 actually fit in the area. There would be no way that
7 you would be able to park on the side of the road
8 because you would be seen.

9 Q. Now, that transaction occurred on
10 October 23rd, 2013. Drug traffickers, when they pick up
11 loads of any drugs, do they typically engage in what's
12 known as cash and carry, meaning here's my money, I'm
13 taking the drugs?

14 A. Sometimes when you're only picking up a small
15 quantity of drugs you actually hope that the distributor
16 will actually get paid for them, but a lot of times when
17 they're dealing with like multiple pounds of marijuana,
18 again, they will front the marijuana to the individual,
19 and what we mean by that is, say, they give them five or
20 10 pounds of marijuana, that individual then will sell
21 that marijuana, get the proceeds, and then will actually
22 pay for the marijuana at a later date.

23 Q. That's known as being fronted with quantities
24 of drugs?

25 A. Correct.

1 Q. Now, between October 23rd through early
2 December 2013, is it fair to say that law enforcement
3 continued to intercept numerous telephone calls between
4 Kosmas Koustas and Charles Fowle, between Kosmas Koustas
5 and Jeremy Blevens, involving Kosmas Koustas's attempt
6 to obtain money from them which represented proceeds
7 from the distribution of marijuana?

8 A. Yes, numerous calls. I remember it was
9 actually a month had gone by and Charles Fowle, you
10 know, made a comment to Kosmas Koustas that it had only
11 been a couple weeks, and Koustas actually had to point
12 out that it had been almost four weeks since he had
13 received any money.

14 Q. And what was the, what was the nature of the
15 call?

16 A. Basically it sounded like Koustas was trying
17 to get the money from the marijuana that he had
18 distributed to Charles Fowle so that he could then in
19 turn pick up an additional amount of marijuana.

20 Q. Now, is it fair to say that on or around
21 December 3rd and December 4th, 2013, law enforcement
22 received information over the wire intercept that
23 Koustas was about to go back to Massachusetts in order
24 to pick up another load?

25 A. Yes. Koustas spoke to the subject we believed

1 to be Dean Sieger again, and during that phone call it
2 again sounded like he was arranging to pick up another
3 load of marijuana.

4 Q. And when did that occur?

5 A. I believe that was December 3rd, December 4th.

6 Q. Now, did law enforcement identify on
7 December 5th that Koustas in fact arranged to meet with
8 an individual who law enforcement believed is Dean
9 Sieger in order to obtain another quantity of marijuana?

10 A. Yes.

11 Q. And what happened during the night of December
12 5th?

13 A. Basically law enforcement had an intercept on
14 Mr. Koustas, unfortunately we had lost him, but through
15 phone calls we did determine that he actually did meet
16 with Mr. Sieger at the Staples in Millbury, Mass.

17 Q. And then what happened?

18 A. Then basically law enforcement set up
19 surveillance back in New Hampshire on 140 Porter Street.
20 We actually saw Mr. Koustas who was actually at the time
21 driving a different vehicle, he was driving a Honda
22 registered to an individual who actually lived at Porter
23 Street. We were able to see the car arrive at the
24 house, unfortunately at nighttime, whether he exited or
25 not, but he did go into the house.

1 Q. All right, we're going to back up a little
2 bit. So Kosmas Koustas, you know that the first load
3 occurred on October 23rd, 2013?

4 A. Correct.

5 Q. On that night you intercepted a phone call
6 between Kosmas Koustas and someone believed to be Dean
7 Sieger; correct?

8 A. Correct.

9 Q. Now, that telephone, did law enforcement
10 attempt to identify the subscriber to the telephone that
11 Koustas was calling that we believe Dean Sieger was
12 holding on to?

13 A. Yeah, that phone again was a phone-in-the-box
14 is what the subscriber was.

15 Q. And how long was the phone on, for example.
16 Did this phone last for five weeks, 10 weeks or two or
17 three days?

18 A. Yeah, this particular phone only lasted I
19 think it was like maybe three days during the actual
20 times that Koustas was trying to arrange to pick
21 something up.

22 Q. All right. Now, span forward to December 5th.
23 You indicated that Kosmas Koustas made another call to
24 the individual believed to be Dean Sieger. Was it to
25 the same number or a different number?

1 A. It was actually a different number.

2 Q. Now, how long did this individual hold on to
3 the second phone that Koustas called?

4 A. Again, it was just a few days between the time
5 that they were actually trying to contact each other.

6 Q. Were arrangements made between Kosmas Koustas
7 and the individual believed to be Dean Sieger for
8 Koustas to travel in order to pick up a load?

9 A. Yes.

10 Q. And you indicated, you made mention to the
11 vehicle Koustas was in. Was it registered in his name?

12 A. No, it was to an Andreas (ph) Nakos.

13 Q. And it was registered to what address?

14 A. 140 Porter Street in Manchester, New
15 Hampshire.

16 Q. Now, at some point in time do law enforcement
17 execute a search warrant at 140 Porter Street in
18 Manchester, New Hampshire?

19 A. Yes. On the same day, March 30th, same day
20 that we did the search warrant at Koustas's residence,
21 we also did one at 140 Porter Street.

22 Q. And what did law enforcement seize in, I'm not
23 sure if it was a basement or not, in 140 Porter Street?

24 A. It was a hockey bag which actually had a tag
25 inside of it that said Boston and on the other side it

1 had the reference to it a type of marijuana.

2 Q. Was that Diamond Kush?

3 A. Yes.

4 Q. And did it say Diamond Kush times 50?

5 A. Correct.

6 Q. What does that mean to you as a law
7 enforcement officer. First, what's the significance of
8 a hockey style bag?

9 A. Typically a hockey bag is what marijuana is
10 actually distributed or moved in from one place to the
11 another. You can typically put 50 to a hundred pounds.
12 So when we saw the times 50, we determined that that
13 particular bag most likely had 50 pounds of marijuana in
14 it, and the Boston reference, most likely it come from
15 Canada down into the Boston area.

16 Q. And that was seized at 140 Porter Street?

17 A. Correct.

18 Q. Now, if it's Diamond Kush times 50 or whatever
19 the brand is, what is the value of this marijuana? It's
20 being sold for how much a pound?

21 A. Typically through this investigation the
22 marijuana was about 3,500 a pound.

23 Q. So if it was 50 pounds of marijuana, what is
24 the street value of that 50 pounds of marijuana?

25 A. Can I have a calculator?

1 Q. Is it 50 pounds times --

2 A. Yeah, 3,500, that's at the low end because
3 obviously if somebody wants to break the marijuana down
4 to smaller quantities you can get more money for it.

5 Q. Is that \$150,000 of the marijuana that could
6 have been in that bag?

7 A. Approximately, yes.

8 Q. Now you mention Porter Street. Let's go back
9 to December 5th. You had jumped ahead to say in March
10 there was a search warrant executed at 140 Porter
11 Street. Now, let's back up to December 5th. After
12 Koustas left Massachusetts, he traveled back to 140
13 Porter Street, is that what you testified to?

14 A. Correct.

15 Q. What happened when he was there? What did law
16 enforcement see during surveillance, and was it easy to
17 see things on surveillance that night?

18 A. Again, the location of that house, it's not
19 easy to park and actually sit on the house so to speak,
20 you have to do drive-bys. It was a dark location, so,
21 you know, we were able to see limited stuff. But we
22 were able to see Koustas arrive there. We also a short
23 time after were able to see Mr. Nakos arrive at the
24 house as well.

25 Q. So, was it approximately 10:00 at night that

1 law enforcement observed a 2014 Mercedes Benz registered
2 to Alkis Nakos arrive at that residence?

3 A. Correct.

4 Q. Did law enforcement observe Alkis Nakos enter
5 the residence?

6 A. We observed an individual, but I don't believe
7 at the time with how dark it was they were able to
8 determine it was actually him.

9 Q. And how long did either Alkis Nakos or Kosmas
10 Koustas remain inside and what happened to them after?

11 A. It's a short period of time, ten minutes
12 approximately, then they both left and surveillance
13 actually followed Mr. Nakos back to 366 Arah Street,
14 which was his residence, and Mr. Koustas back to his
15 Hooksett residence.

16 Q. So, Alkis Nakos, a person believed to be Alkis
17 Nakos, arrived in a 2014 Mercedes Benz registered to
18 him, stayed ten minutes, and later went back to his own
19 residence; correct?

20 A. Correct.

21 Q. Now, that was December 5th. What happened on
22 December 6th?

23 A. On December 6th Mr. Koustas actually contacted
24 Mr. Sieger again. Again, it seemed like they were
25 trying to arrange something. Mr. Sieger had made

1 statements that he hadn't heard from them yet.

2 Q. Hadn't heard from them?

3 A. Correct.

4 Q. What does that mean?

5 A. To us that meant that Mr. Sieger was arranging
6 most likely for someone to come down from Canada and was
7 in contact with those people. Mr. Koustas in turn said
8 no, it's not going to happen, which told us that maybe
9 Mr. Koustas had more information than Mr. Sieger
10 actually had.

11 Q. Was that unusual to you?

12 A. Yes, it was.

13 Q. Why?

14 A. Because we thought Mr. Sieger actually had
15 more of a tie to the actual source of the marijuana.

16 Q. So on December 6th after Koustas had just
17 obtained a load December 5th, there was another call
18 between Koustas and the person believed to be Dean
19 Sieger?

20 A. Correct.

21 Q. And during that call Dean Sieger says I'm
22 waiting to hear from them, and Koustas replied it's not
23 going to happen?

24 A. Correct.

25 Q. And what did you do with respect to trying to

1 find out who Kosmas Koustas might have spoken to in
2 addition to Dean Sieger on that date, December 5th?

3 A. We had received telephone toll records on
4 another number, New Hampshire number, and those toll
5 records actually showed that Mr. Koustas and Mr. Nakos
6 actually had a conversation at approximately 10:40 in
7 the morning, and we believed based on the conversation
8 with Mr. Sieger, that Mr. Koustas received information
9 from Mr. Nakos that this load was not going to happen,
10 which Mr. Koustas actually relayed to Mr. Sieger later
11 that night when he spoke to him.

12 Q. Now, you have just, you mentioned that you
13 received information involving a different telephone.
14 Now, let me just make it clear. Kosmas Koustas is
15 speaking to Dean Sieger on a telephone that has been
16 identified as 508-479-6296; is that correct?

17 A. Correct.

18 Q. And that is the phone that law enforcement are
19 up on the wire on; is that correct?

20 A. Correct.

21 Q. But law enforcement received additional
22 information that Kosmas Koustas had another telephone
23 with the number 603-261-0853; is that correct?

24 A. Correct.

25 Q. So, when Koustas spoke to the person believed

1 to be Dean Sieger on the 508 number, there was no
2 communication between Koustas and Nakos on that number;
3 right?

4 A. Not on that number, no.

5 Q. But directly before Koustas spoke to Sieger,
6 Koustas had a conversation with Alkis Nakos utilizing a
7 different cellular telephone number, and after that
8 conversation Koustas told Sieger the load is off?

9 A. Correct.

10 Q. What does that say to you as law enforcement?

11 A. What it says to me or what our initial
12 information was was that Mr. Nakos was actually the
13 person that had direct communications with the Canadian
14 sources, and Mr. Nakos was then in turn telling Mr.
15 Koustas that, you know, he must have spoken to somebody
16 up there because he had information that the load was
17 not going to come through, which Mr. Koustas then in
18 turn told Mr. Sieger.

19 Q. Now, the following day, December 7th, 2013,
20 was there another call between Koustas and the person
21 believed to be Dean Sieger?

22 A. Yes.

23 Q. And what what happened

24 A. They actually (inaudible) to me.

25 Q. And was there a meeting?

1 A. Yes, law enforcement was able to set up on Mr.
2 Koustas who was actually driving the same Honda Accord
3 listed to Andreas (ph) Nakos, 140 Porter Street. Mr.
4 Koustas met who we believed to be Mr. Sieger at a mall
5 in Millbury, Massachusetts. We were then able to follow
6 both individuals from that mall to a house in Millbury,
7 Massachusetts, on 4 Coldbrook Road.

8 Q. Okay, so, there was a load on October 23rd, a
9 load on December 5th, Koustas said to Sieger on December
10 6 it's off, but on December 7th there's going to be
11 another load; is that accurate?

12 A. Correct.

13 Q. And you just identified a residence located on
14 4 Coldbrook Road in Millbury, Massachusetts?

15 A. Correct.

16 Q. What did law enforcement see with respect to
17 that residence? Had law enforcement been watching that
18 residence for a significant period of time?

19 A. Yes.

20 Q. During law enforcement surveillance, did law
21 enforcement ever observe someone by the name of Goldberg
22 Hassan (ph) arrive at that residence?

23 A. Yes, and she was operating a rental car.

24 Q. And the rental car was rented out of where if
25 you know?

1 A. I know it was Budget, I'm not sure, upper
2 state, I'm not sure.

3 Q. What did law enforcement find out about
4 Goldberg Hassan (ph)?

5 A. We found out that she actually works for Bank
6 of Montreal.

7 Q. Where does she live?

8 A. Up in Canada.

9 Q. So the residence, 4 Coldbrook Road, law
10 enforcement were watching that and observed a woman,
11 Goldberg Hassan (ph), who lives in Canada and works for
12 Bank of Montreal arrive at that residence?

13 A. Correct.

14 Q. Now, you testified about the individual known
15 as Dean Sieger, believed to be Dean Sieger, and you've
16 identified two telephones that Dean Sieger had but were
17 not in his name; correct?

18 A. Correct.

19 Q. And you also testified that those phones were
20 held on for just days; is that correct?

21 A. That's correct, yes.

22 Q. Although the phones were held on to for days,
23 did law enforcement get toll records for those phones?

24 A. Yes, it did.

25 Q. What does it mean to get toll records?

1 A. Basically it gives you a history of the phone
2 numbers that those particular phones actually called.

3 Q. When law enforcement engaged in the toll
4 records, was it even a five-day period of time?

5 A. I believe it was only three days.

6 Q. Did you see any information which would
7 connect the phone being held and used by the individual
8 believed to be Dean Sieger in any connection with
9 individuals located in Plattsburgh, New York?

10 A. Yes.

11 Q. How close is Plattsburgh, New York, to Canada?

12 A. Very close.

13 Q. What's the information law enforcement
14 obtained with respect to who the individual believed to
15 be Dean Sieger was contacting near the Plattsburgh, New
16 York, area?

17 A. I believe it was Mr. Lafave.

18 Q. Was it Marshall Lafave?

19 A. Yes.

20 Q. I direct your attention to paragraph 60 of the
21 arrest warrant affidavit.

22 A. I know Mr. Lafave was involved in drug
23 trafficking as well. I believe that \$32,500 was
24 actually seized from him at one time.

25 Q. So, law enforcement connected one of the

1 numbers belonging to or believed to be held by Sieger to
2 someone by the name of Marshall Lafave?

3 A. Correct.

4 Q. Is it accurate to say that law enforcement
5 stopped Marshall Lafave in upper state New York and
6 ultimately seized \$32,500 in U.S. currency that was
7 contained in a hermetically sealed package?

8 A. Yes.

9 Q. Was that currency believed to be the proceeds
10 of marijuana?

11 A. Yes, it was.

12 Q. Now let's back up again to December 7th. When
13 law enforcement observed Kosmas Koustas go to 4
14 Coldbrook Road in Millbury, Mass. along with an
15 individual believed to be Dean Sieger, what happened
16 after?

17 A. We were then able to follow Mr. Koustas back
18 to Manchester, New Hampshire, where he again went to 140
19 Porter Street.

20 Q. And did he arrive at approximately 8:30 p.m.?

21 A. Yes, he did, when he exited the vehicle he
22 actually brought a bag into the residence with him.

23 Q. So, when he arrived it was approximately 8:30;
24 correct?

25 A. Correct.

1 Q. At 8:41 did the second telephone identified as
2 belonging to Kosmas Koustas, the 603 number, the
3 261-0853 number, did Kosmas Koustas receive an incoming
4 call on that line?

5 A. Yes. He received a call from Alkis Nakos.

6 Q. And what happened?

7 A. Shortly thereafter Mr. Koustas left Porter
8 Street and we were able to follow him directly over to
9 Mr. Nakos's residence on Arah Street.

10 Q. What does that say to law enforcement when you
11 observed them now on the 5th and the 7th meeting right
12 after Koustas comes back with a load of marijuana?

13 A. Well, what it says to us is that Mr. Koustas
14 brought back a load of marijuana and actually on the 5th
15 Mr. Nakos met him at Porter Street to pick up a quantity
16 of marijuana, but then on the 7th Mr. Koustas actually
17 drove over to Mr. Nakos's residence to deliver the
18 marijuana.

19 Q. Now, on -- and by the way, is this arrest
20 warrant affidavit, is it fair to say that there are a
21 lot of intercepted calls that are referenced in the
22 affidavit?

23 A. Yes.

24 Q. But are there hundreds of additional
25 conversations that were monitored that are not in this

1 affidavit?

2 A. Yes, hundreds.

3 Q. How successful were law enforcement with
4 monitoring conversation between Kosmas Koustas and Alkis
5 Nakos?

6 A. On this particular --

7 Q. Throughout the investigation?

8 A. Oh, we did intercept him on another telephone
9 line, unfortunately a lot of it was in Greek which made
10 it difficult as well, but again, everything, when Mr.
11 Koustas and Mr. Nakos spoke, it was all in coded
12 language.

13 Q. Now, let's -- I'll direct you to March 15th of
14 2014, and if you will I'd like you to turn to paragraph
15 95 of the affidavit.

16 A. Yup.

17 Q. What happened on March 15, 2014, on the wire
18 intercept? Was Kosmas Koustas intercepted speaking to
19 someone by the name of Christopher Ranfos?

20 A. Yes.

21 Q. And what happened during the call? Law
22 enforcement believed that Ranfos would obtain a quantity
23 of marijuana from Koustas?

24 A. Yes, Mr. Koustas told Mr. Ranfos where he was.
25 At that time law enforcement set up on Cedar Street. We

1 did observe Mr. Ranfos arrive at the location. We also
2 observed Mr. Ranfos take a bag out of the back of Mr.
3 Koustas's van.

4 Q. And then what did law enforcement observe
5 Christopher Ranfos do once he had a bag from Koustas's
6 van?

7 A. We then observed Mr. Ranfos actually go back
8 to his residence on Boutwell Ave.

9 Q. That van that you're referencing, Sergeant
10 Mackenzie, is that the same van where the pound of
11 marijuana was seized that had the label NH?

12 A. Yes.

13 Q. So, after law enforcement observed Kosmas
14 Koustas meet with Christopher Ranfos on March 15, 2014,
15 Ranfos then went back to his, Ranfos's, residence?

16 A. Correct.

17 Q. And then what did law enforcement see?

18 A. Then a short time later an individual by the
19 name of John Horne actually arrived at Mr. Ranfos's
20 residence.

21 Q. And what happened next?

22 A. And we observed Mr. Horne actually go into the
23 residence, come out a short time later and actually had
24 a bag in his hand which he put into his vehicle.

25 Q. Then what happened?

1 A. Law enforcement was able to follow Mr. Horne
2 back to Raymond, New Hampshire, where we had the state
3 police stop him. Upon stopping him the trooper received
4 consent to search his vehicle and actually took a half
5 pound of marijuana out of the bag that Mr. Horne had
6 taken out of Ranfos's house.

7 Q. So Ranfos gets marijuana from Koustas. Ranfos
8 goes home. Horne drove to Ranfos's home, gets the
9 marijuana, puts it in his car, and law enforcement
10 stopped him and they seize a half a pound of marijuana?

11 A. Correct.

12 Q. Two days later on March 17, 2014, what
13 happened to Christopher Ranfos, who's he with?

14 A. Mr. Ranfos and Mr. Nakos actually were
15 traveling south on the Everett Turnpike in Nashua where
16 a Troop B New Hampshire state trooper stopped them for a
17 motor vehicle violation. Upon stopping them there was
18 four cell phones seized from Mr. Nakos. In addition
19 there was \$19,000 total seized from both Mr. Ranfos and
20 Mr. Nakos, and I believe Mr. Nakos had 95 hundred of
21 that money. They both said that they were going down to
22 Foxwoods.

23 Q. Now, of the cell phones did law enforcement,
24 through the U.S. Attorney's Office, obtain search
25 warrants to execute on those telephones?

1 A. Yes.

2 Q. And so there are presently pending search
3 warrants. Has law enforcement been successful in
4 breaking the codes or the password to get on those
5 phones?

6 A. No.

7 Q. Will that take at least three more months?

8 A. Possibly.

9 Q. Now, I want to talk a little bit now about
10 cocaine. During the course of this investigation did
11 law enforcement intercept telephone calls between Kosmas
12 Koustas and Charles Fowle talking about cocaine?

13 A. Yes.

14 Q. And when did that occur, was that in March?

15 A. Yes.

16 Q. And what did law enforcement hear over the
17 wire?

18 A. Mr. Koustas was trying to obtain what we
19 believe to be 1 or 2 kilograms of cocaine from a Mr.
20 Sanchez who resided in Massachusetts. The conversations
21 went back and forth as far as Mr. Koustas being able to
22 actually get the product from Mr. Sanchez. I believe at
23 one time Mr. Sanchez was ill.

24 Q. Now, drug traffickers, when you arrange to
25 purchase a kilogram of cocaine, do you just say I'll

1 meet you here and then it happens, or is it an ongoing
2 process?

3 A. No, typically they will meet ahead of time,
4 you know, make arrangements, especially for quantities
5 that large, you know, they will meet up first, discuss
6 prices, because again, they don't like to talk over the
7 phone. So they will discuss prices, discuss where it's
8 going to happen and when it's going to happen. I know
9 Mr. Koustas at one time did meet up with Mr. Sanchez at
10 the BJ's in Hooksett.

11 Q. All right, now, you made mention to especially
12 to this type of quantity. Is 1 or 2 kilograms a lot of
13 cocaine in New Hampshire?

14 A. Yes.

15 Q. How often do law enforcement see 1 or 2
16 kilograms of cocaine?

17 A. Not often.

18 Q. What does it cost to purchase a one-pound
19 quantity -- excuse me, one kilogram, approximately?

20 A. Could be upwards of 40, \$45,000.

21 Q. Now, you just made mention that in March, was
22 it March 22nd, 2014, that Kosmas Koustas made
23 arrangements to meet with the cocaine source of supply
24 at a BJ's Wholesale in Hooksett?

25 A. Yes.

1 Q. Did law enforcement surveil that meet?

2 A. Yes, we did.

3 Q. Now, before the surveillance did law
4 enforcement monitor a telephone call that Kosmas Koustas
5 made to Alkis Nakos before the meeting between Koustas
6 and Jose Rodriguez Sanchez?

7 A. Yes.

8 Q. And I'll direct your attention to paragraph
9 107 of the affidavit. At the very bottom page there's a
10 sentence that starts prior to the meeting law
11 enforcement intercepted a conversation between Koustas
12 and Nakos.

13 A. Correct.

14 Q. Where was Koustas physically located during
15 the interception of that call?

16 A. He was inside the BJ's.

17 Q. And what did Koustas say to Nakos during that
18 conversation?

19 A. Basically they were talking about, you know,
20 Koustas getting the quantity, I think Nakos actually
21 said the other one, did he call, which Koustas then
22 replied he called me, he is outside himself now, which
23 was consistent with what we had seen.

24 Q. All right, so Nakos said over the phone -- and
25 by the way, is this in English or in Greek?

1 A. I believe this was in Greek.

2 Q. Do you have, at the time you were monitoring
3 these conversations, did you have a certified Greek
4 interpreter?

5 A. Yes, we did.

6 Q. And was she present at all times interpreting
7 the conversations for law enforcement when you needed
8 them interpreted?

9 A. Yes, she was.

10 Q. And during this conversation Nakos stated the
11 other one, did he call. What did you interpret that to
12 mean?

13 A. I interpreted that to mean that Mr. Nakos knew
14 about Mr. Koustas's trying to get a quantity of cocaine
15 which we believed a kilo or two.

16 Q. Now, when Koustas replied he called me a
17 minute ago, he is outside himself now, I spoke to him a
18 little ago, who was outside at that time waiting to meet
19 with Koustas?

20 A. At that time it was Mr. Sanchez.

21 Q. And does this say to a law enforcement officer
22 that Alkis Nakos knew about this transaction?

23 A. Yes.

24 Q. Now, is this what ultimately ended up with
25 Kosmas Koustas attempting to be stopped by law

1 enforcement?

2 A. Yes.

3 Q. Now, when did that happen?

4 A. On March 30th.

5 Q. When -- did law enforcement surveil Kosmas
6 Koustas travel to Massachusetts in order to pick up 1 or
7 2 kilograms of cocaine from Jose Rodriguez Sanchez?

8 A. Yes, we had intercepted a phone call to
9 arrange Mr. Koustas to come down to Massachusetts and
10 pick up what we believed to be 1 or 2 kilos of cocaine.

11 Q. When Kosmas Koustas arrived back in New
12 Hampshire, what did law enforcement do?

13 A. We had arranged for a marked New Hampshire
14 state trooper to stop Mr. Koustas. When the time came
15 that the trooper actually initiated the stop, activated
16 the emergency lights, Mr. Koustas did pull over briefly,
17 and when the trooper started getting out of his car Mr.
18 Koustas took off at a high rate of speed and --

19 Q. Was there a pursuit?

20 A. Yes, there was a very brief pursuit. Due to
21 the fact that Mr. Koustas was driving in the breakdown
22 lane at a high rate of speed, weaving in and out of
23 traffic, we felt that it was a danger to the public at
24 that time and it was not worth it to engage in pursuit
25 and immediately terminated.

1 Q. Why not, why won't law enforcement when
2 individuals are going in excess of a hundred miles an
3 hour, why don't law enforcement engage to follow them at
4 that rate?

5 A. It's just not worth it, especially the state
6 police, we have very strict policy on pursuits, and
7 because we knew who the individual was, we knew it was
8 Kosmas Koustas, it just was not worth us pursuing him
9 based on the way he was driving. We didn't want to
10 cause any harm to anybody else.

11 Q. Did law enforcement ever recover any of the
12 cocaine?

13 A. We did not.

14 Q. What do you believe happened to the cocaine?

15 A. Well, we lost him for a period of time, maybe
16 a half hour or so, before the Derry Police Department
17 actually found him again in Derry off Exit 4. So, he
18 could have either thrown it out, he could have stashed
19 it somewhere, there are so many things he could have
20 done with that cocaine, but we weren't able to recover
21 it.

22 Q. Before -- while Kosmas Koustas was engaged in
23 the pursuit, does he use his phone that law enforcement
24 are monitoring and contact anyone?

25 A. Yes.

1 Q. Who does he contact -- he doesn't contact
2 Alkis Nakos?

3 A. No, James Johnson I believe.

4 Q. Are you surprised that Kosmas Koustas didn't
5 contact Alkis Nakos?

6 A. No, I'm not surprised at all.

7 Q. Why?

8 A. Because he also contacted another individual
9 by the name of Frank Fowle, and during that conversation
10 actually said the phones are bad, and then called James
11 Johnson and advised that he wanted Mr. Johnson to go to
12 his house and basically gave him a list of where things
13 were, as he said, his gat, which to me is a gun, advised
14 where that was, a moll, which to me is Molly, advised
15 where that was, because he wanted Mr. Johnson to go to
16 the residence to clean it out before law enforcement
17 went there.

18 Q. Let me back you up again. So when Kosmas
19 Koustas is engaged in a high speed chase, he contacts
20 someone who law enforcement knows as Frank Fowle. Does
21 Frank Fowle have a brother?

22 A. Yes, Charles Fowle.

23 Q. Is Charles Fowle the individual who was at
24 Waverly Street in Manchester?

25 A. Yes, he is.

1 Q. Is Charles Fowle the individual who was
2 engaged in a lot of distribution of controlled
3 substances on behalf of Kosmas Koustas?

4 A. Yes, he does.

5 Q. So what did Kosmas Koustas say to Frank Fowle
6 as he's engaged in a pursuit?

7 A. Basically he said that the phones were bad,
8 you know, basically that he was in a pursuit and
9 discontinued the call.

10 Q. I'm going to refer your attention to paragraph
11 114 of the affidavit. Now, four sentences down it says
12 30 seconds duration Kosmas Koustas told Frank Fowle.
13 What did he say to Frank Fowle?

14 A. Let it be known I was arrested. In response
15 Mr. Fowle says you were? (Inaudible.) Terminate the
16 call.

17 Q. What does that say to you as a law enforcement
18 officer?

19 A. Basically Mr. Koustas is telling him to get
20 the word out that the phones are bad, he got arrested,
21 don't use the phones.

22 Q. And you also made mention to Kosmas Koustas
23 having a communication with somebody by the name of
24 James Johnson?

25 A. Correct.

1 Q. Does James Johnson have a federal conviction
2 where he served 30 months for being a felon in
3 possession of a weapon?

4 A. Yes.

5 Q. Now, what did Mr. Koustas say to James
6 Johnson, and I'll refer your attention to paragraph 112
7 of the affidavit. If you look four sentences, five
8 sentences from the bottom it starts at during the call.
9 Can you read that; please?

10 A. So basically Mr. Koustas says during the call
11 with an individual believed to be James Johnson, Koustas
12 had stated that he's in a chase and he needs a pickup,
13 which to me meant that basically he had lost law
14 enforcement at the time and he needed someone to come
15 pick him up.

16 Q. And then what else did he say to Johnson?

17 A. And then he told Johnson to travel to his
18 residence and to remove the box from his bureau, the
19 shoe box in the downstairs closet, the moll which
20 clearly means Molly.

21 Q. When you say the moll, you mean M-O-L-L, moll
22 as in Molly?

23 A. Yes, M-O-L-L.

24 Q. What else did he say?

25 A. And also he wanted to remove inositol.

1 Q. What's inositol?

2 A. It's a substance typically that they add to
3 cocaine to actually increase the amount of cocaine.

4 Q. What else did Koustas ask him to do?

5 A. And then Koustas asked Mr. Johnson to have
6 Koustas's girlfriend, Jen Suk Day, to get the gat, which
7 I believe to be a gun.

8 Q. All right, so Koustas says to James Johnson,
9 get the inositol, get the moll, get the bureau or the
10 box near the bureau, and he said tell Jenny, Jenny Suk
11 Day, to get the gat.

12 A. Yes.

13 Q. Is that a term used by individuals who are
14 involved in the drug trade?

15 A. Yes.

16 Q. What's a gat?

17 A. A slang term for firearms.

18 Q. And all these places that Koustas identified,
19 did law enforcement go and execute a search warrant and
20 find the controlled substances exactly where Koustas
21 described they would be to James Johnson?

22 A. Yes, we did.

23 Q. By the way, did James Johnson arrive at
24 Koustas's house and try to get in?

25 A. There was a follow-up phone call and Mr.

1 Johnson told Mr. Koustas that he was not able to take
2 care of it, that law enforcement was already at the
3 house when he got there.

4 Q. Was that true?

5 A. Yes.

6 Q. Now, in addition to seizing the drugs, was
7 there a money counter seized?

8 A. Yes.

9 Q. What's a money counter?

10 A. Usually when somebody has large amounts of
11 currency they utilize a money counter. It's easier to
12 count the money obviously.

13 Q. What about weapons, how many weapons were
14 seized at Koustas's residence?

15 A. Two firearms, two handguns.

16 Q. Was one loaded and did one have a round in the
17 chamber?

18 A. Yes.

19 Q. Now, why do you think, Sergeant Mackenzie, was
20 law enforcement not ever able to get Alkis Nakos with
21 drugs in hand?

22 A. Again, because I believe he was utilizing Mr.
23 Koustas to do the, quote, unquote, dirty work.

24 MS. OLLILA: No further questions, your Honor.

25 THE COURT: Attorney Carey.

1 MR. CAREY: Thank you, your Honor.

2 CROSS-EXAMINATION

3 BY MR. CAREY:

4 Q. Good afternoon, Sergeant Mackenzie.

5 A. Good afternoon.

6 Q. Sergeant Mackenzie, you've been referring to
7 an affidavit during this hearing?

8 A. Yes, sir.

9 Q. And you did not sign this affidavit; correct?

10 A. I did not.

11 Q. Troop Norris did?

12 A. Correct.

13 Q. And Trooper Norris works under you?

14 A. Correct.

15 Q. And did you review the affidavit before he
16 signed it?

17 A. Yes, I did.

18 Q. What was your role in putting the affidavit
19 together?

20 A. My role would be as far as like surveillance,
21 listening to, but actually the typing of the affidavit
22 would have been Mr. Norris.

23 Q. How many other people were involved with
24 putting the information into the affidavit?

25 A. There's numerous people involved as far as

1 providing information, but the actual physical typing of
2 the affidavit would have been Mr. Norris.

3 Q. You stand by his accuracy?

4 A. Yes.

5 Q. And who decided what to -- strike that. This
6 is a long investigation you talked about. Went back to
7 2008 and became more active in 2012. You couldn't put
8 everything in the affidavit that covered that time
9 period; correct?

10 A. No.

11 Q. Who decided what went in the affidavit and
12 what stayed out of the affidavit?

13 A. I believe it was Attorney Ollila and Trooper
14 Norris.

15 Q. And I believe you've been talking about
16 information involving Mr. Nakos back in 2008, 2009.
17 That time period is not something he's been charged
18 with; correct?

19 A. No.

20 Q. The affidavit charged him with October 13
21 through April 14; correct?

22 A. Correct.

23 Q. And so the -- and so the period of time the
24 court should consider here is the six-month period of
25 time; correct?

1 A. Correct, but the other time establishes a
2 history.

3 Q. Okay. From which no charges were ever
4 pursued?

5 A. Correct, but it still establishes a history of
6 pattern.

7 Q. And the -- everything you believe supported --
8 that supported the charges against Mr. Nakos made its
9 way into this affidavit; correct?

10 A. I believe so.

11 Q. All right. The most incriminating to Mr.
12 Nakos is in this affidavit; correct?

13 A. Correct, correct.

14 Q. Okay. Now, you referred to some drugs that
15 were found in 140 Porter Street, which is Mr. Koustas's
16 home; right?

17 A. I never said anything about any drugs in 140.

18 Q. I thought there was a bag found with a small
19 quantity of marijuana?

20 A. I know there was a hockey bag.

21 Q. Hockey bag. No marijuana?

22 A. There was a small amount of marijuana was not
23 in that hockey bag.

24 Q. Was it at that location?

25 A. Again, I would have to refer to the evidence

1 report. It would have been a very small amount if there
2 was.

3 Q. Okay. And MDMA was also found at that
4 location?

5 A. It was found at Mr. Koustas's residence in
6 Hooksett.

7 Q. Okay. And I don't see that -- you talked a
8 lot about the distribution of MDMA of Mr. Koustas and
9 other associates. Mr. Nakos was never charged with
10 being involved with the distribution of MDMA; correct?

11 A. No.

12 Q. He's not charged in the distribution of
13 oxycodone either; correct?

14 A. Correct.

15 Q. And that was something Mr. Koustas was
16 involved with?

17 A. Correct.

18 Q. It's in the affidavit?

19 A. Correct.

20 Q. Now, there were also weapons that were found
21 in Mr. Koustas's home when the search warrant was
22 executed; correct?

23 A. Yes.

24 Q. In the course of your investigation no weapons
25 were ever observed in the possession of Mr. Nakos;

1 correct?

2 A. No, there were not.

3 Q. And also according to your complaint no drugs
4 were ever found in his residence; correct?

5 A. Correct.

6 Q. Even when a search warrant was executed at his
7 residence on Arah Street no drugs were found; correct?

8 A. Again, I would have to refer to the evidence
9 report. If there was any, it would have been a small
10 amount.

11 Q. And it would have been in the search warrant
12 -- it would have been in the affidavit; correct?

13 A. Yes.

14 Q. When did the surveillance of the Amory House
15 of Pizza begin?

16 A. I don't know the exact date it what was but --

17 Q. Ballpark.

18 A. It was probably I'd say last fall of 2013 is
19 when it began.

20 Q. And how active was the surveillance of the
21 Amory House of Pizza?

22 A. Fairly active.

23 Q. When you say active, you mean --

24 A. Daily.

25 Q. Daily?

1 A. Yeah.

2 Q. Would there be logs to show what times that
3 location was being surveilled?

4 A. If something was observed, then we would note
5 it.

6 Q. Okay. And if nothing was observed what would
7 happen then?

8 A. It wouldn't be noted.

9 Q. Okay. And in terms of what was being
10 observed, would it be incriminating things that would be
11 noted in the log if they were observed?

12 A. If it was incriminating, yes.

13 Q. Okay. And so based on the fact that there's
14 only one reference to Amory House of Pizza on Monday in
15 the affidavit by Trooper Norris, is it fair to assume
16 that during that stretch of time there's nothing
17 incriminating about his --

18 A. I couldn't answer that. I don't know.

19 Q. Well, if it's not in the affidavit?

20 A. I'm just saying I can't say to you yes because
21 I don't know without reviewing other reports.

22 Q. Do you agree with me that there's only one
23 reference to any activity on one day at the Amory House
24 of --

25 A. Yes.

1 Q. In the affidavit?

2 A. Correct.

3 Q. And you don't feel comfortable making the
4 logical inference that if there's nothing else observed
5 in that location that there wasn't incriminating
6 observations made during the surveillance?

7 A. Yeah, I don't feel comfortable saying that
8 there were no other observations.

9 Q. All right. 366 Arah Street, how long was that
10 location surveilled?

11 A. I would say in late summer/fall of 2013.

12 Q. And how active was the surveillance at that
13 location?

14 A. Not as active as Amory House. I can't give
15 you an exact. Depends on what was going on at the time.

16 Q. If Amory House was almost daily, how accurate
17 was the Arah Street location?

18 A. Again, it would depend on what was happening
19 with information that we had at the time. If it was
20 information at the time that made us think that
21 something was going to be happening in the area of Arah
22 Street, then we would have had surveillance on it.

23 Q. Would it be surveilled at least once a week
24 during that six-month period that we're talking about?

25 A. Possibly once a week, possibly once every two

1 weeks. Again, it depends on what was happening at the
2 time.

3 Q. 117 Pine Street, who lives at that location?

4 A. I'm not familiar with 117 Pine Street.

5 Q. What time did law enforcement investigate what
6 vehicles were registered to Mr. Nakos?

7 A. I'm sorry, can you repeat that?

8 Q. That's a bad question. There's reference to a
9 Mercedes that was registered to Mr. Nakos; correct?

10 A. Correct.

11 Q. Your law enforcement investigating began in
12 earnest in the fall of 2013. When did law enforcement
13 try to determine what vehicles were registered to Mr.
14 Nakos?

15 A. Again, I can't give you an exact date of when
16 the case agent actually physically ran, you know, Mr.
17 Nakos's vehicles.

18 Q. Would it have been early on in the
19 investigation?

20 A. I believe so, but I can't give you a date on
21 that.

22 Q. That makes sense. If you're going to surveil
23 Mr. Nakos, you have to know what he drives; right?

24 A. Correct.

25 Q. Were there any other vehicles that were

1 registered to him that you --

2 MS. OLLILA: Your Honor, I object only because
3 it's beyond the scope of direct. And oftentimes defense
4 counsel tries to make it a fishing expedition when we
5 have PC hearings and I think this is bordering perhaps
6 on this.

7 THE COURT: Where are you going with this?

8 MR. CAREY: I'm going on.

9 THE COURT: Okay.

10 Q. There was a van that you testified to earlier
11 that was involved in a transaction Mr. Koustas was
12 involved in. That van was never registered to Mr.
13 Nakos; correct?

14 A. Correct.

15 Q. What was the relation between Mr. Nakos and
16 Mr. Koustas. Was it a family relationship, neighbor
17 relationship? What was it?

18 A. I don't know if there's actually a family
19 relationship, but definitely a partnership and
20 friendship.

21 Q. They both grew up in Manchester together?

22 A. I believe so, yes.

23 Q. Part of the Greek community in Manchester?

24 A. Correct.

25 Q. Do you believe that every interaction between

1 Mr. Nakos and Mr. Koustas involves some unlawful
2 activity?

3 A. Do I believe every --

4 Q. Yeah?

5 A. No, I don't believe every interaction.

6 Q. There are interactions they could have had
7 that could have been innocent or lawful; right?

8 A. There could be, yes.

9 Q. And without knowing, for example, there could
10 have been phone calls between Mr. Nakos and Mr. Koustas
11 that were innocent calls; correct?

12 A. Correct.

13 Q. Without knowing the specific content of that
14 call you can't say one way or the other whether it was a
15 lawful call or unlawful call; correct?

16 A. Which call are you specifically referring to?

17 Q. A call between the two of them.

18 A. Yeah, I would say there were calls that were
19 innocent.

20 Q. And without knowing the exact content of what
21 was discussed you can't say that was a call that was
22 innocent or that was a call that wasn't innocent;
23 correct?

24 A. Again, what calls are you referring to?

25 Q. Between the two of them. We don't know the

1 contents of the call?

2 A. Well, I think that the call goes in
3 correlation with the time that somebody is picking up a
4 load of marijuana based on history that Mr. Koustas and
5 Mr. Nakos had and the relationship they have, then, yes,
6 we would determine that that call would be related to
7 the actual call, the distribution.

8 Q. The only way to know for sure would be to know
9 what the contents of that call was; correct?

10 A. Well, based on the fact that there was a phone
11 call, there's a load of marijuana picked up and there's
12 a meeting late at night for a brief period of time,
13 based on my training and experience tells me that a lot
14 of activity occurred within that ten minutes.

15 Q. Without knowing the content you can't say with
16 100 percent certainty?

17 A. I'm basing it on my experience of being a
18 police officer for 19 years and being in a drug unit for
19 15 years.

20 Q. Let me ask a simpler question. Without
21 knowing the content of the conversation between Mr.
22 Nakos and Mr. Koustas, can you say with a hundred
23 percent certainty that that call was unlawful?

24 A. Again, I can say based on my training and
25 experience that's what I believe, that they were talking

1 about --

2 Q. 100 percent certainty?

3 A. I won't say a hundred percent if that's what
4 you're trying to get at. But based on everything that
5 occurred, that's what I believe happened.

6 Q. I want to ask you, you talked about a
7 surveillance that was conducted on December 15, 2013, at
8 140 Porter Street. I believe paragraph 52. Do you
9 remember those questions?

10 A. Yes.

11 Q. Okay. And that was, I believe you testified
12 that Mr. Nakos arrived at that location, got out of his
13 car and then later went back to his house on Arah
14 Street; correct?

15 A. Correct.

16 Q. And you testified that you believed that that
17 was, he was involved in retrieving drugs?

18 A. Based on everything that occurred before, the
19 time of night and the duration of the visit, yes.

20 Q. Okay. Now, paragraph 52, that surveillance
21 that was referred to for that occasion on that date,
22 were you part of the surveillance team?

23 A. I believe I was.

24 Q. Okay. In paragraph 52 of Trooper Norris's
25 sworn affidavit I notice he didn't mention him seeing

1 anybody get out of the Mercedes at South Porter Street
2 at the time that it was observed; is that correct?

3 A. Yeah, if that's what it says.

4 Q. I direct you to I think it's five lines up
5 from the bottom of the page, paragraph 52.

6 A. Yup. It says Alkis Nakos arrived.

7 Q. Correct. The car arrived. It doesn't refer
8 to anybody getting out of the car; correct?

9 A. It does not refer, correct.

10 Q. Doesn't refer to anybody putting anything into
11 the car; correct?

12 A. Correct.

13 Q. Doesn't refer to anybody taking something out
14 of the car; correct?

15 A. Yeah, again, I believe I said that it was the
16 location we weren't able to sit directly on the house.

17 Q. Correct. And on direct examination you
18 testified that you saw Mr. Nakos get out of the car?

19 A. Yeah, I believe what I said was I thought
20 somebody said they saw him get out of the car. My
21 mistake. It said he arrived.

22 Q. And so there's no indication that he picked up
23 anything from Mr. Koustas on that date; correct?

24 A. Again, we weren't on the house. We did not
25 see him exit the house. So I can't tell you that he did

1 or did not bring something out of the house because it
2 wasn't observed. But I can tell you based on what
3 happened prior and the fact of the time of night and the
4 duration of the visit, that's what leads me to believe
5 that he did pick something up.

6 Q. Even though Trooper Norris doesn't swear in
7 his affidavit that he saw Mr. Nakos ever get out of the
8 car at that location; correct?

9 A. Again, he didn't see him get out of the car,
10 but again, I would have to refer to the surveillance
11 report to actually determine if anybody was actually in
12 the car when a second drive by was done.

13 Q. And that would be an important thing to note
14 whether Mr. Nakos was observed getting out of that
15 Mercedes at that location; correct?

16 A. But again, based on the way the area is,
17 you're not able to physically sit on the house, you
18 can't actually stare at the house, basically drive by
19 the house, so obviously you see limited stuff as you
20 drive by and then limited as you drive by again.

21 Q. Correct. Based on that manner of
22 surveillance, Trooper Norris did not swear that he saw
23 Mr. Nakos ever get out of his car at that location, get
24 back into his car, or take something out of his car or
25 put something into his car at that location. That's not

1 in the affidavit; correct?

2 A. Correct.

3 Q. The next day, December 6, 2013, which is
4 referenced in paragraph 53 of Trooper Norris's
5 affidavit, on direct examination you said that you
6 believed based on that call that Mr. Nakos was in touch
7 with his Canadian sources; correct?

8 A. Correct.

9 Q. The phrase Canadian sources doesn't appear to
10 be anywhere in Trooper Norris's affidavit at paragraph
11 53 referencing that call, does it?

12 A. Correct.

13 Q. The second part about what you testified to
14 about December 5, 2013, is December 7, 2013, where you
15 mentioned Mr. Koustas going to Mr. Nakos's house on Arah
16 Street; correct?

17 A. Correct.

18 Q. And I believe you said your conclusion was
19 that in the first instance Mr. Nakos was picking up
20 something, and the second instance Mr. Koustas was
21 bringing something to Mr. Nakos at his house?

22 A. Correct.

23 Q. As I read the sworn affidavit, paragraph 53,
24 58, that surveillance conducted on December 7, 2013, at
25 Mr. Nakos's house, there's no information that Mr. Nakos

1 was even home at that time; correct?

2 A. Correct.

3 Q. There's no reference to a Mercedes being in
4 the driveway; correct?

5 A. Not in this affidavit, no.

6 Q. And in fact paragraph 58 concludes because
7 Koustas entered the residence, law enforcement could not
8 determine whether he met with Mr. Nakos; correct?

9 A. And what we mean by that, obviously when he
10 goes in the house we can't visually see him being with
11 him.

12 Q. And based on the surveillance and based on all
13 the information you compiled in your investigation, you
14 couldn't confirm that Mr. Nakos was even home when Mr.
15 Koustas went to that address?

16 A. Well, we based it on the fact there was a
17 phone call prior to him going to the residence.

18 Q. Okay. But there's no hard facts that show Mr.
19 Nakos was even home at that time; correct?

20 A. Correct.

21 Q. Now, I understand you talked about some other
22 calls that are not, that you believe Mr. Nakos was
23 involved that were not in this affidavit. As I recall
24 the affidavit, over a six-month period there's only four
25 calls referenced that involve Mr. Nakos and Mr. Koustas.

1 Does that sound accurate?

2 A. In this affidavit?

3 Q. In this affidavit.

4 A. Yes, in this affidavit, but there were more
5 phone calls between the two.

6 Q. During that time frame?

7 A. Yes.

8 Q. Why aren't those phone calls in the affidavit?

9 A. I have no answer for that.

10 Q. You talked in the beginning part of your
11 testimony about the network of a drug organization, do
12 you remember that, those questions?

13 A. Yes.

14 Q. And you talked about multiple personalities
15 being involved. Do you remember saying that?

16 A. Yes.

17 Q. It's another way of saying multiple roles for
18 people to do different things?

19 A. Correct.

20 Q. And I think you talked about
21 compartmentalization is something you observed in a drug
22 organization?

23 A. Correct.

24 Q. So you have people that distribute the stuff,
25 the drugs, people that take the money, a different

1 person counts the money, a different person transports
2 the money. There's multiple levels of
3 compartmentalization?

4 A. Correct.

5 Q. And based on your experience, because of that
6 compartmentalization, different people don't know what
7 other people's roles are; is that fair to say?

8 A. Correct, sometimes that's what happens.

9 Q. That's what you're telling us or concluded
10 based on your investigation of this particular case?

11 A. Correct.

12 Q. If some of those roles were compressed, you
13 have somebody who was doing distribution, collecting
14 money and taking money and counting money, what does
15 that tell you if multiple roles are folded into one
16 person?

17 A. I don't know if I understand what you're --

18 Q. It's a bad question. I'll try to clear it up.
19 You say usually in a network you see different roles
20 assigned to different people and it's compartmentalized;
21 correct?

22 A. Correct.

23 Q. If you don't see compartmentalization, you see
24 somebody distributing drugs, picking up drugs,
25 collecting money, transporting money, counting money, if

1 one person is doing all of that kind of stuff what does
2 that tell you about the network?

3 A. Again, are you saying that one person is
4 involved? I don't understand what you're trying to get
5 at.

6 Q. I'll try again. You have one person doing
7 multiple jobs as opposed to one person doing one
8 separate job. What does that tell you when you have one
9 person doing multiple things, a lot of things?

10 A. That they're the ones that are involved in, I
11 don't know what you're trying -- I mean, that has
12 nothing to do with this organization, so I don't know
13 what you're trying to say.

14 Q. I'm just asking based on your experience, you
15 testified about your experience investigating these
16 kinds of cases, what does it tell you when you don't
17 have compartmentalization, what conclusion does that
18 make you --

19 A. If you're telling me that one person is doing
20 everything, then obviously there's only one person
21 that's involved in it.

22 Q. All right. You were asked briefly about a
23 stop that Nashua PD made -- State Trooper Czyzowski made
24 in Nashua on St. Patrick's Day on 2004, March 17th?

25 A. Correct.

1 Q. And Mr. Nakos was stopped?

2 A. Yes.

3 Q. And can you tell me how many different law
4 enforcement officers were involved in planning that
5 stop?

6 A. I can tell you that that was a completely
7 random stop. That was not orchestrated by our unit.

8 Q. Trooper Czyzowski was with Troop B?

9 A. Yes.

10 Q. And was Troop B aware of the investigation
11 going on of Mr. Nakos?

12 A. No. Again, it was a completely random stop.

13 Q. Why wouldn't Troop B be aware of the
14 investigation?

15 A. Because we don't, the Narcotics Unit doesn't
16 tell everybody about the cases that we're doing. It's a
17 narcotics case. We don't spread it throughout the state
18 police.

19 Q. Don't you put out requests for information
20 about certain people --

21 A. What I'm trying to tell you, I know you don't
22 believe it, but I'm telling you that was a completely
23 random stop. It was not orchestrated by this
24 investigation.

25 Q. And what can you tell us whether Mr. Nakos's

1 car was subject to surveillance that day?

2 A. There aren't any records because, again, it
3 was a random thing. We just found out. I don't know
4 exactly how we found out that he was stopped but somehow
5 the Narcotics Unit found out that the trooper stopped
6 Mr. Nakos, but it was not orchestrated by our unit based
7 on this investigation.

8 Q. When did your unit find out about the stop?

9 A. Again, I wasn't the one that received the
10 phone call, but it was during the stop obviously.

11 Q. And how -- I know you weren't the one who
12 received it, but how would your unit have found out --

13 MS. OLLILA: Your Honor, objection to the line
14 of questioning. I don't know what the relevance to this
15 is, but this is a fishing expectation.

16 MR. CAREY: It was gone in to some detail
17 about what was found and the phones that were found,
18 what they could be used for, going to do a search,
19 search warrant used or was obtained for those phones.
20 There was talk about the money that was found. The only
21 reason to talk about those things is to paint Mr. Nakos
22 as part of this conspiracy. So I think I'm entitled to
23 go into a little bit of questioning about this stop and
24 what was found during the stop.

25 THE COURT: Well, that's a different line of

1 questioning than what you've asked. You've asked her
2 several times about the nature of the stop and what
3 prompted it, and she's told you several times that it
4 was random. So if you want to ask her the question you
5 just asked, go right ahead, but that's a different line
6 of questions than the ones that you were going over
7 several times prior.

8 MR. CAREY: All right.

9 Q. When did your unit get involved with that
10 stop?

11 A. Again, I wasn't --

12 Q. I'm not talking about before, I'm talking he's
13 stopped --

14 A. I wasn't the one who received the phone call.
15 I just had heard that, and I believe it was Sergeant
16 LaFoley received a phone call or somehow somebody heard
17 that Mr. Nakos had been stopped by Troop B, and then
18 Mister, I think it was Trooper Czyzowski contacted I
19 believe it was Sergeant LaFoley. But again, I wasn't
20 part of the conversation, but I do know that that stop
21 was not orchestrated by us.

22 Q. I'm past that.

23 A. Okay.

24 Q. I'm past that part of it. The stop happens.
25 Trooper Czyzowski contacts somebody. At that point your

1 unit gets involved. Does your unit get involved at the
2 scene?

3 A. No.

4 Q. Does your unit get involved in applying for
5 the search warrants?

6 A. No. I believe Sergeant LaFoley just told
7 Trooper Czyzowski to do what he normally does when he
8 stops somebody who has suspicious activity, told to
9 treat it like a stop.

10 Q. You're not aware of any, other than what was
11 found in the car, you don't know what was found in the
12 vehicle; correct?

13 A. Maybe a small amount of marijuana from my
14 recollection, but I could be wrong. I know the phone
15 and money.

16 Q. No weapons found in the car?

17 A. No, I don't believe so.

18 Q. And did the surveillance of Mr. Nakos continue
19 after that stop?

20 A. Continue?

21 Q. In general as part of your investigation, that
22 was March of 2014, this complaint charges conduct April
23 2014. Did your surveillance of Mr. Nakos continue?

24 A. During that time period, yes.

25 Q. And did you observe him flee the jurisdiction

1 at that time?

2 A. I couldn't answer that.

3 Q. Did he get on a plane and go over to a foreign
4 country?

5 MS. OLLILA: Objection as to relevance.

6 MR. CAREY: Some of this goes over to the bail
7 argument.

8 THE COURT: Well, why don't we save that for
9 the bail argument, then you can make those by offers of
10 proof or if the sergeant is still here you can put her
11 back on the stand if you feel that that's necessary.

12 Q. Sergeant, you testified earlier that Mr.
13 Koustas had been robbed at some point? His house had
14 been broken into?

15 A. I don't remember testifying to that.

16 Q. It was in the affidavit; correct?

17 MS. OLLILA: Objection as beyond the scope.

18 MR. CAREY: It's in the affidavit, your Honor.

19 THE COURT: There was not a line of
20 questioning that related to that whatsoever.

21 MR. CAREY: I ask for a little latitude
22 because this is a criminal complaint, an affidavit that
23 is being used.

24 MS. OLLILA: And I object because this is
25 defense counsel trying to get additional discovery that

1 he's not entitled to.

2 THE COURT: How does this relate to Mr. Nakos?
3 We're here about his particular circumstances, not Mr.
4 Koustas's.

5 MR. CAREY: Because Mr. Koustas's
6 circumstances are being used to bring Mr. Nakos into
7 this case, and Mr. Koustas's circumstances are outlined
8 in this affidavit.

9 THE COURT: The line of questioning that
10 relates to Mr. Koustas and Mr. Nakos really was
11 fundamentally focused on their interactions.

12 MR. CAREY: Let me proceed with a different
13 line, your Honor.

14 Q. In the course of your investigation are you
15 aware of any money going from Mr. Koustas to Mr. Nakos?

16 A. As far as physically seeing, is that what
17 you're asking me?

18 Q. Let's start with physical observations of
19 money changing hands from Koustas to Nakos.

20 A. No physical observations.

21 Q. And in the affidavit there's no observation
22 that there's -- of any belief that money is going from
23 Mr. Koustas to Mr. Nakos; correct?

24 A. I don't believe so in the affidavit, no.

25 Q. Okay. And there's nothing in the affidavit

1 about money going from Mr. Nakos to Mr. Koustas;
2 correct?

3 A. Correct.

4 Q. And no direct dealings between Mr. Koustas and
5 Mr. Sieger, Dean Sieger?

6 A. As far as money?

7 Q. Any direct communications between Mr. Nakos
8 and Mr. Sieger?

9 A. Mr. Nakos and Mr. Sieger, not that I know of.

10 Q. Or Mr. Nakos and either one of the Fowle
11 brothers?

12 A. Not that I know of.

13 Q. Or Mr. Nakos and Mr. Sanchez?

14 A. Again, not that I know of.

15 Q. Or Mr. Nakos and Blevens?

16 A. Not that I know of.

17 Q. And during the time frame of October 13
18 through April 14th there were no, nothing in the
19 affidavit about any confidential source having any
20 direct contact with Mr. Nakos; correct?

21 A. Correct, in this affidavit, no.

22 Q. And if there were any direct contact between a
23 confidential source and Mr. Nakos, it would have been,
24 during that time frame, it would have been put in the
25 affidavit; correct?

1 A. I couldn't answer that.

2 MR. CAREY: Thank you. I have no further
3 questions.

4 MS. OLLILA: No further questions. Thank you,
5 your Honor.

6 THE COURT: Do either of you wish to add
7 anything additional in the argument regarding the
8 motion?

9 MS. OLLILA: No, your Honor. Is Trooper
10 Mackenzie finished and can she step down? I don't know
11 whether your Honor has any questions.

12 THE COURT: I don't have any questions for
13 her. Thank you very much.

14 MS. OLLILA: Thank you, your Honor. I don't
15 know if your Honor would like the United States to tie
16 in the evidence. I think that Trooper Mackenzie's
17 testimony has sufficiently established the use of the
18 telephone between Kosmas Koustas and Alkis Nakos in
19 order to talk about drug trafficking. Specifically and
20 most appropriately when Kosmas Koustas is talking about
21 meeting with Jose Rodriguez Sanchez, there's a
22 communication on March 22, 2014, while law enforcement
23 are surveilling Jose Rodriguez Sanchez outside of the
24 BJ's Wholesale, Kosmas Koustas is inside waiting for
25 Jose Rodriguez Sanchez to arrive. Kosmas Koustas

1 engages in a conversation with Alkis Nakos, and during
2 that conversation Alkis Nakos talks about the other one,
3 and Kosmas Koustas says he's outside. That is a
4 conversation involved in the distribution of cocaine.
5 There's a reason why the complaint charges Alkis Nakos
6 with engaging in a conspiracy to distribute controlled
7 substances because he has involvement not only in
8 marijuana but also in this cocaine transaction. We know
9 following that meeting on March 22nd, just nine days
10 later is when Kosmas Koustas is followed down to
11 Massachusetts, picks up a load of cocaine, is stopped by
12 law enforcement, and engages in a high speed chase,
13 calls on the telephone to Frank Fowle, says my phone has
14 been compromised, let it be known that I've been
15 arrested. That is more than sufficient in this
16 affidavit to find the defendant has engaged in use of a
17 communication facility. I think the rest is obvious
18 with respect to the conspiracy to distribute and possess
19 with intent to distribute controlled substances. Of
20 course we're talking about marijuana.

21 All the information suggests that Alkis Nakos
22 is at the top of this organization. There's no surprise
23 he's never really going to be in the mix by going to get
24 amounts of marijuana. That's not his role. He's too
25 high in the chain of command. He has Kosmas Koustas do

1 it. That's why Kosmas Koustas when he comes back on
2 December 5th with a load of marijuana, we know he has a
3 load, where does he go? He does to 140 Porter Street.
4 It's not Koustas's residence. It's not Nakos's
5 residence. It's an independent place away from their
6 residences. They do it on purpose because if they
7 believe law enforcement are watching, they would believe
8 that law enforcement are watching their residences.

9 Koustas calls Nakos when he is coming back on
10 December 5th. Koustas calls Nakos right before he gets
11 to Porter Street on December 7th. I think the
12 information is more than sufficient to establish that
13 Koustas and Nakos have engaged in a conspiracy to
14 distribute controlled substances, that Nakos has been
15 also involved in possessing controlled substances with
16 the intention of distributing them. Thank you, judge.

17 THE COURT: Attorney Carey.

18 MR. CAREY: It's a hard argument to make, for
19 me to make because I'm having to respond to this
20 argument that he's involved, we know he's involved, but
21 there's no direct evidence that he's involved. It's a
22 difficult position to be put in. Most of the evidence
23 in this affidavit, almost all the evidence in the
24 affidavit involved direct handling of money, handling of
25 weapons, of drugs, the majority of the phone calls, the

1 majority of the surveillance all concerns Mr. Koustas,
2 not Mr. Nakos. When I asked about on direct examination
3 there was testimony that Mr. Nakos was directly involved
4 with the Canadian suppliers, on cross-examination
5 Sergeant Mackenzie conceded that no, that wasn't in the
6 affidavit. On direct examination she testified that on
7 December 5th Nakos was observed getting out of his car,
8 going into a house where Koustas was and had just
9 completed a drug deal down in Massachusetts. On
10 cross-examination she conceded that there were no such
11 observation of Mr. Nakos going into that house, getting
12 out of his car, having anybody put anything into his car
13 on that day. Same thing with the 7th when Mr. Koustas
14 travels to Mr. Nakos's home. No evidence that Mr. Nakos
15 is at his home at that location.

16 The evidence here, and there was testimony
17 that the organization was compartmentalized, and if it's
18 compartmentalized why is everything found in one
19 location when the search warrant is executed, when the
20 arrest warrant is executed. It's not found in Mr.
21 Nakos's business. It's not found at Arah Street, his
22 home. Nothing is found in his car. And I believe, your
23 Honor, that looking at the totality of the evidence and
24 also trying to put in perspective the argument that he's
25 involved but no direct evidence of his involvement which

1 is sort of a tautology, I think in the context of this
2 affidavit and the testimony that was presented there is
3 not probable cause to believe Mr. Nakos was involved in
4 drug-related conduct from October 13th to April 2014.
5 It just doesn't point to Mr. Nakos as being the source,
6 the engineer, the one that is directly involved in that
7 conduct.

8 THE COURT: Anything further?

9 MS. OLLILA: Not with respect to the issue of
10 probable cause, judge, thank you.

11 (Pause.)

12 THE COURT: Based on the evidence that was
13 presented to the court starting this morning and moving
14 into this afternoon the court finds that the government
15 has established its burden that there's probable cause
16 to believe that the offenses set forth in the criminal
17 complaint as they relate to Alkis Nakos were committed
18 and that Mr. Nakos committed them.

19 MS. OLLILA: Thank you, judge. May we move
20 into the issue of detention?

21 THE COURT: Yes. Does anybody wish to have a
22 short break or should we move right ahead, and I'm happy
23 to continue to move forward. I'm just not sure what
24 your preference is.

25 MR. CAREY: We're happy to move forward on

1 offers of proof.

2 THE COURT: Let's move forward with that,
3 then.

4 MS. OLLILA: May I proceed?

5 THE COURT: Please do.

6 MS. OLLILA: Your Honor, you are aware that
7 this is a case that establishes that there's a rebuttal
8 presumption of detention under 3142 of Title 18, and
9 that is that there's no condition or combination of
10 conditions to assure the safety of the community or the
11 defendant will flee.

12 It is absolutely true that the defendant has
13 ties to the community. I believe he presents a risk of
14 flight because there is an enormous sentence that Mr.
15 Nakos is looking at. Your Honor is aware -- and let me
16 also back up. The factors that your Honor relies on are
17 laid out in 3142, and a lot of those factors are the
18 weight of the evidence, some of the factors are history
19 and characteristics of the defendant.

20 One of the most important things for your
21 Honor to know is that the defendant already has a prior
22 conviction and he received a five to 10-year term of
23 incarceration based on the sale of crack cocaine. That
24 means that the defendant knows he is going to look at a
25 significant period of incarceration if he's convicted

1 again. He's not someone who would be deemed a Criminal
2 History Category I. The sentencing guidelines regarding
3 Mr. Nakos's sentence here and the way the sentencing
4 guidelines operate is they take into account the drug
5 amount. The drug amount is based upon something called
6 relevant conduct. That is all conduct that was
7 reasonably foreseeable to this defendant. So, at the
8 time of sentencing, regardless of what the United States
9 proves at trial, at the time of sentencing the United
10 States can offer relative conduct such as that
11 information provided by a confidential source. Now just
12 for the record, obviously, at trial the United States
13 would establish the history since 2008. The United
14 States would present the testimony of the confidential
15 source and the United States would ask the jury to find
16 the drug weight. But, it is clear to the United States
17 that based upon the information in its possession, not
18 even talking about the additional information which the
19 United States will find out soon based upon cooperators,
20 Mr. Nakos is looking at a significant term of
21 incarceration.

22 Not only that, judge, he is what the United
23 States will argue at the time of sentencing, an
24 organizer or leader. That will entitle him to a bump in
25 his sentence. It is, to speak conservatively, the

1 United States believes that Mr. Nakos is looking at a
2 sentence far in excess of ten years.

3 Now, the other factors that your Honor relies
4 upon are the nature and history of the defendant.
5 What's real interesting about Alkis Nakos is that he
6 claims to have been employed at Amory Street Pizza
7 throughout his life. That is the establishment that
8 sells zero food. Twelve dollars a month in food,
9 currency that they're using to purchase food. That is
10 the establishment that law enforcement has known since
11 2008 is a business front. It is in the name of the
12 defendant's father, but the defendant's father is just
13 an individual who the defendant put his property in.
14 This defendant did the same thing with the Mercedes Benz
15 that he put in his mother's name, and that Mercedes Benz
16 in November of 2011, the defendant made one payment of
17 \$17,500 for a lease vehicle. Within six months he made
18 another cash payment of \$28,000. That's \$45,000, judge,
19 over the course of six months that the defendant is
20 using to purchase one car that he placed in his mother's
21 name.

22 Why is that important? Well, the defendant
23 claims that he's working at Amory Pizza making \$30,000 a
24 year. He's not doing that. There's nothing being sold
25 out of Amory Pizza. In addition, the defendant claims

1 that in his taxes he makes a total of \$30,000 a year.
2 The defendant also claims that he makes an additional
3 amount of money by gambling. But what the defendant is
4 doing, judge, the defendant is laundering money, and
5 he's laundered money since 2008, and what the United
6 States has information to suggest, and all of this
7 information has been laid out in the forfeiture
8 affidavit which has been filed by the court, accepted by
9 the court, so among other things Amory Street Pizza
10 there's a now a lis pendens on that because the United
11 States is going to seize it and sell it based upon the
12 proceeds there.

13 Mr. Nakos, the way he launders his money, the
14 way he's always been laundering his money, is not too
15 crafty, but what drug dealers do is they might take
16 \$30,000 and they know they need to try to legitimize it.
17 What Mr. Nakos does is he takes that \$30,000 and he goes
18 down to Foxwoods and buys chips in the amount of
19 \$30,000, not intending to lose money. He just wants to
20 wash the money. Since 2008 Foxwoods Resorts and Casinos
21 has had Mr. Nakos gamble \$550,000 since 2008. And this
22 is someone who by his own taxes shows he is working at
23 Amory Pizza making \$30,000 a year. Amory Pizza makes no
24 money, judge, because there's nothing going on there.
25 So, since 2008 Mr. Nakos's has washed \$550,000 through

1 Foxwoods. He doesn't bring huge amounts of money and
2 lose it. He goes and he essentially leaves with what he
3 puts in. It's classic money laundering, judge.

4 Interestingly also the defendant has reported
5 that he owns real estate and that he owned it with
6 Alison Ouellette. It's concerning because Alison
7 Ouellette is a bank employee and the United States found
8 out recently that she, as a bank representative,
9 obtained a safe deposit box for Mr. Nakos in February of
10 2014. It's concerning because Alison Ouellette is the
11 defendant's ex-girlfriend. She has been in contact.
12 We're not making any allegations about Alison Ouellette
13 at this point in time, but it is true that she works for
14 a bank and in 2000, February 2014 as a bank
15 representative got a safe deposit box for Mr. Nakos that
16 the United States has not gotten into yet.

17 This defendant claims that he has ties to the
18 community. That's true, except that he now knows if he
19 is convicted he will serve a significant period of
20 incarceration. That represents a powerful incentive for
21 Mr. Nakos to flee. I submit to your Honor a lot of the
22 information provided by the defendant in this bail
23 report is not supported in any way based upon the
24 independent information. In fact, the United States
25 would say that most of it is not accurate at all. He

1 doesn't make a living playing blackjack. He goes down
2 there to launder his drug proceeds.

3 And as late as March of 2014, this is someone
4 who just so happens to be with Christopher Ranfos, two
5 days after Ranfos supplied marijuana to John Horne that
6 he, Ranfos, got from Kosmas Koustas. These two are the
7 in the same vehicle. Each of them have \$10,000 on their
8 person which they're going to Foxwoods to supposedly
9 gamble. They weren't. They are just laundering money,
10 judge.

11 I think the evidence would establish that this
12 defendant is a risk of flight and a danger to members of
13 the community because he makes his living by selling
14 drugs, and I therefore ask that he be detained pending
15 trial.

16 THE COURT: Attorney Carey.

17 MR. CAREY: Yes, your Honor. At this stage of
18 any criminal proceeding the government always has more
19 information than either the court has or defense counsel
20 has. And so part of what I suggest a way to look at the
21 situation, look at this question of whether he's a
22 flight risk is to look at what are proven facts. And
23 what are proven facts are information that all sides
24 have access to, facts that have not changed because they
25 are historical facts. Historical facts are this. That

1 Mr. Nakos is 35 years old. That Mr. Nakos has one
2 criminal conviction for drugs back in 1998. He has no
3 convictions for threats, for threatening, for assault,
4 for any crimes of violence. Those are proven facts. He
5 has no default. He has no failures to appear. When he
6 pled guilty in 1998, he plead guilty to drug charges.
7 It's my understanding that he was out on bail pending
8 those charges. He pled guilty and received a sentence
9 of 5 to 10 years with 10 to 20 suspended. He showed up
10 to court to accept that sentence. And when he got out
11 he had 10 to 20 years hanging over his head and there
12 was a parole violation filed. Did he run? Did he flee?
13 Did he threaten anybody? Did he do anything other than
14 take his medicine?

15 There's no indication that he tried to flee
16 the jurisdiction looking at a possible 10 to 20 coming
17 down on a suspended sentence knowing that that was out
18 there. He had got two more years for that, and after
19 that he was put on a bracelet. There's no indication
20 that even when faced with substantial sentences of
21 incarceration that this individual flees or this
22 individual does anything that is a harm or a danger or a
23 threat to the community in terms of other people's
24 safety and direct safety. Those are proven facts.
25 Those are known facts. Those are facts that we all have

1 access to.

2 Looking at the information that was presented
3 here, some of the information presented here, some I
4 have never seen before, never heard before, don't have
5 access to because at this stage of the case I don't have
6 access to information, neither does the court, but if
7 you look at the stop on March 17, 2014, what happens?
8 Now, if Mr. Nakos believes that law enforcement is now
9 suspicious of him, they've searched his vehicle, they
10 searched it for drugs, does he flee? No. Does he
11 threaten witnesses? No. Does he do anything other than
12 continue to live in Manchester with his family, with his
13 girlfriend who is now probably ten days away from
14 delivering their first child, a baby girl. Faced with,
15 well, what seemed to be a problem, he doesn't do
16 anything. He stays put. He stays in the community.
17 That's a proven fact. That's an established fact.
18 That's something this court can rely upon and look to in
19 determining whether any set of conditions will guarantee
20 or assure Mr. Nakos's return to court for his
21 appearances or pose any sort of threat to the community.

22 No weapons have ever been found on Mr. Nakos's
23 person, in his vehicles, at his house. No drugs were
24 found at his house when it was searched. And no
25 information came out of the six-month surveillance that

1 the government suggests that Mr. Nakos was involved with
2 weapons or involved with threats or involved with
3 physical harm to do anything in connection with the
4 activity that he's being charged with here today.

5 I would suggest that looking at the facts that
6 we know, facts that are historical facts, some of the
7 facts that are uncontroverted, and looking at Mr.
8 Nakos's ties to the community, his record of appearing
9 for court, even looking at long, long sentences, that
10 this court can be assured that he will appear before all
11 scheduled court appearances and will not flee the
12 jurisdiction. There are conditions that the court could
13 impose to assure that. It can require him to surrender
14 his passport. You could put him on a bracelet. You
15 could confine his activities.

16 For all these reasons, your Honor, and for
17 what we know about Mr. Nakos at this stage of the
18 proceedings, I would suggest that the court grant him
19 bail either in a cash amount or subject to conditions
20 such as a bracelet or something like that. Thank you,
21 your Honor.

22 THE COURT: Thank you. I have just a couple
23 of questions, Attorney Carey. I'm assuming that you
24 have seen the pretrial services report in this case?

25 MR. CAREY: I was provided a copy of it. I

1 reviewed it with my client before I came down here, I
2 just skimmed it.

3 THE COURT: But it was provided to you before
4 the hearing today; is that correct?

5 MR. CAREY: Yes, it was.

6 THE COURT: I note that on page three there's
7 a reference to the period of time where Mr. Nakos was at
8 the New Hampshire State Prison. It indicates that in
9 addition to substance abuse therapy he participated in
10 an anger management program. Do you know anything about
11 the circumstances of that program and why he was
12 referred to that program?

13 (Pause.)

14 MR. CAREY: I know many inmates incarcerated
15 in state prison and in federal prison take advantage of
16 any program they possibly can to obtain certificates,
17 spend their time trying to improve themselves. There is
18 no criteria as I understand to be admitted to one of
19 those programs other than to say I'd like to be part of
20 this program. So I don't know the specifics of that
21 particular, his participation in the anger management
22 program at that facility. I don't know whether he got a
23 certificate for completing that program, but I do know
24 that there were no -- there had been no crimes of
25 violence that are part of his record of conviction.

1 THE COURT: And my understanding is that with
2 regard to the offer of proof as it relates to the dollar
3 amount that your client is alleged to have brought
4 through Foxwoods, is there additional information or
5 insight that you'd like to share with regard to that?

6 MR. CAREY: No, your Honor, today is the first
7 day I've heard of that information.

8 THE COURT: With regard to the, I'm going to
9 pronounce this wrong, it's Amory Street Pizza, I always
10 want to say Amory and I apologize, the Amory Street
11 House of Pizza, and that is an ongoing business entity,
12 do you have any information that you'd like to share or
13 that rebuts the allegations of the government that it's
14 not a legitimate business operation and that it only
15 spends \$12 a month purchasing food over a certain period
16 of time?

17 MR. CAREY: I don't know what period of time
18 that the government is referring to about the money
19 spent on food at that establishment. I believe that
20 Amory House of Pizza was started by Mr. Nakos's father
21 even before Mr. Nakos's was born. So I don't know what
22 content, I don't know what period of time the government
23 is alleging it was not a business or ongoing restaurant.

24 MS. OLLILA: Your Honor, perhaps I can
25 elaborate.

1 THE COURT: Please.

2 MS. OLLILA: There has been a law enforcement
3 officer who has been in and out of that establishment,
4 and that law enforcement officer, and when I say in and
5 out I don't want to identify how long but it has been a
6 significant period of time, that law enforcement officer
7 would testify, for example, that there was one time when
8 someone called in to order a pizza and they said no,
9 we're not -- we don't serve pizza. I can assure your
10 Honor that for a very long period of time that facility
11 had been monitored daily, and not once has there been
12 any food going in or out of there. I can assure your
13 Honor that that law enforcement officer has been in
14 there a lot, and that law enforcement officer would
15 testify that although there are drinks, alcoholic
16 beverages at time provided, there's no food and that it
17 appears that this is not an ongoing business pizza
18 operation. That was clear. And I don't want to divulge
19 more for obvious reasons.

20 THE COURT: Anything further, Attorney Carey?

21 MR. CAREY: No, your Honor.

22 THE COURT: Mr. Nakos, you heard a reference
23 earlier from Attorney Ollila as to the factors that the
24 court is obligated to consider as it makes its
25 determination as to whether there are any condition or

1 combination of conditions that will reasonably assure
2 your appearance, and whether there are any condition or
3 combination of conditions that will reasonably assure
4 the safety of another or the community. The factors
5 that the court consider include the nature and
6 circumstances of the crime charged. In this particular
7 instance the charges that you have been -- the complaint
8 charges you with various crimes related to drug
9 activity, and that's something that the court needs to
10 consider, and I'm considering that in the context of my
11 order.

12 There is also the weight of the evidence, and
13 again, in this particular instance, particularly given
14 the presumption in this case, this is a circumstance in
15 which the weight of the evidence is something that I
16 must consider, and in your scenario while your attorney
17 has presented some evidence particularly as it relates
18 to risk of flight, the burden of persuasion remains on
19 the government and the presumption still carries
20 evidentiary weight that I consider.

21 There's also the history and characteristics
22 of the defendant, and that includes your criminal
23 record. And in this particular instance you do have
24 prior criminal activity, and in particular that activity
25 relates to the distribution and possession, if I have

1 that correct, excuse me, the sale of a narcotic drug and
2 the possession of a narcotic drug with intent to sell,
3 you pled guilty to those charges, and the narcotic was
4 crack cocaine.

5 In terms of your past conduct and also your
6 employment, those are other factors that I can consider.
7 The government has raised significant issues regarding
8 the legitimacy of your business and the nature of the
9 business that you're involved in, and in particular the
10 evidence as it relates to the surveillance and the lack
11 of what appears to be business, pizza business related
12 activity, something that the court is going to consider
13 very strongly as it looks at your release potentially
14 into the community.

15 In addition, there is at least the
16 government's proffer that while your representations to
17 pretrial services is that you have a net worth of
18 \$15,200 and that your monthly income is \$2,600, there's
19 an unexplained amount of gambling activity at Foxwoods
20 in a significant dollar amount, and the government has
21 represented that was at least \$550,000.

22 With regard to history of drug and alcohol
23 abuse, your pretrial services report establishes a
24 regular use of marijuana. That's another factor that
25 the court's considering.

1 And finally with regard to your finances,
2 there's been a representation proffered by the
3 government that there's an unexplained amount of funds
4 that you were able to purchase a vehicle and make a down
5 payment and the subsequent payment in cash on a vehicle,
6 and again that just doesn't seem to line up with your
7 earnings as they relate to what you've represented in
8 your pretrial services report.

9 As a result of those various findings that
10 I've made for the purposes of this hearing the court
11 concludes that there are no conditions, combination of
12 conditions that will reasonably assure your appearance,
13 nor are there any conditions or combination of
14 conditions that will reasonably assure the safety of
15 another or the community in the context of this case.

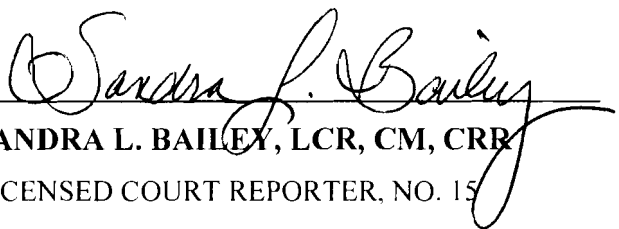
16 As a result, I remand you to the custody of
17 the United States Marshal.

18 MS. OLLILA: Thank you, your Honor.
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C E R T I F I C A T E

I, Sandra L. Bailey, do hereby certify that
the foregoing transcription from FTR Gold is to the best
of my skill and ability.

Submitted: 11/5/2014


SANDRA L. BAILEY, LCR, CM, CRR
LICENSED COURT REPORTER, NO. 15
STATE OF NEW HAMPSHIRE

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